Study of A Proposal (and its alternatives) to Amend the Textile Labelling and Advertising Regulations

Applying the Conference Board's Optimal Policy Mix Framework

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Prepared by *The Conference Board of Canada*
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Report

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Executive Summary

In February 2001, the Ethical Trading Action Group (ETAG) launched a disclosure campaign proposing that the government amend the Textile Labelling and Advertising Regulations of the *Textile Labelling Act (TLA)* to require disclosure of the addresses of manufacturing sites on labels of apparel sold in Canada. Unlike other disclosure proposals, notably those to be implemented in Australia, this one is meant to apply to manufacturing locations worldwide, not just to those in Canada. In making this request, ETAG members—a broad coalition including religious groups, labour groups, non-government organizations (NGOs), and other socially minded agencies—seek to facilitate verification of the labour standards employed at manufacturing sites around the world that supply apparel to the Canadian market.

This report was commissioned by the Competition Bureau to assess the amendments proposed by ETAG and help identify the implications of implementing the amendments for consumers, government, domestic industry, international trade, and trade agreements. To do this, the Conference Board has followed the processes of the Optimal Policy Mix (OPM) framework, not only assessing the ETAG proposal but also identifying and assessing a number of alternative policy options. As a result, this report helps clarify the policy objective, evaluation criteria, and alternatives to the ETAG proposal.

Following the OPM, the report first looks at the policy objectives of ETAG and other stakeholders, including members of the apparel industry. These policy objectives were found to be substantially broader than those addressed by the ETAG proposal. ETAG seeks to inform consumers on the labour practices used by providers of apparel to the Canadian market. The proposal seeks only to provide the names and addresses of the manufacturing locations. In this sense, the ETAG proposal is incomplete. However, ETAG feels that public knowledge of the exact locations of manufacturing facilities would lead companies to self-regulate—because the information they provide would enable concerned members of the public, including ETAG supporters, to investigate manufacturing locations and publicize the labour practices used in them.

In general, the Conference Board finds that the mechanics of disclosure described by ETAG are ill-defined or impractical in the following respects:

- Current labels lack the space needed to carry information on manufacturing location(s) and labour standards.
- The ETAG proposal would rely on other mechanisms, such as the CA Number web site or other specialized web sites, to disseminate information about the fairness of labour standards. This would be awkward for consumers, at best, if only because of the large number manufacturing locations and the frequency of change.
- ETAG suggests no mechanisms to ensure that the information provided on labels would reflect a balanced view of labour standards. The Conference Board believes that other alternatives that provide balanced information to consumers directly would be better.
- The proposal singles out the Canadian apparel industry, subjecting it to increased scrutiny and uncertainty at a time when the global apparel industry is in turmoil and the roles of Canadians within it are uncertain.
- To disclose manufacturing addresses is to disclose the wrong information, since it fails to inform consumers about what may be of concern to them, namely the labour standards used in the making of a garment. Indeed, the country of manufacture information already found on every garment label provides as much useful information to consumers as would an address of a manufacturing plant.

Much of the discussion in the report centres on the effectiveness of ETAG's immediate objective: worldwide disclosure of manufacturing sites as a way of informing consumers on labour practices. The Conference Board, with a significant number of stakeholders, believes that the broader objective, namely the use and promotion of fair labour standards in the production of apparel, needs to be the main goal of the policy instrument. In discussing policy objectives as part of the OPM process, stakeholders disagreed on whether disclosure would be an effective means of achieving this overall policy objective. And while much of the feedback of stakeholders centred around disclosure, it is but a part of promoting the use of fair labour standards.

In the context of the policy objectives of stakeholders, the ETAG proposal is an inadequate step forward beyond the *status quo.* The Conference Board's interpretation of the proposal is that it fails to provide any additional useful information to consumers about labour standards. Providing information about a large number of manufacturing locations would be most useful to organizations that support the proposal but not so useful to consumers. This, and the significant concerns of other stakeholders around complete public disclosure of supply chain information, suggest that the ETAG proposal as currently formulated is not an effective instrument to achieve the policy objective.

The ETAG proposal to disclose names and addresses of manufacturing locations is also unique. In looking at initiatives around the world, the Conference Board found only one similar disclosure initiative, in Australia. However, the Australian policy objectives are much narrower, targeting only domestic suppliers and focusing on the working conditions of home workers in the Australian apparel sector. The ETAG proposal is much broader in its application, since it seeks to use public disclosure to identify international supply chains—an innovative but largely unproven way of contributing to the issue.

This report reviews a number of alternatives based on initiatives implemented in other countries or suggested by stakeholders, including:

- procurement initiatives (similar to those being implemented by universities and cities);
- institutional practices initiatives (such as company or industry level codes of conduct);
- certification initiatives for apparel suppliers (similar to the one launched in January 2000 by the American Apparel Manufacturers Association);
- bilateral labour agreements (in parallel with trade initiatives, such as those with Chile and Costa Rica); and
- regular reporting on practices used by specific companies.

However, the report suggests that such alternatives, and others tried worldwide, have not been effective at achieving the desired policy objective. This implies that the government take another look the policy objectives being pursued by ETAG, particularly in light of what other countries are doing to address the issue of fair labour standards and in light of the realities facing the Canadian and global apparel industries.

The report suggests that the various policy alternatives might be more effective if they incorporated better disclosure and verification of labour standards as part of the policy choice or if disclosure incorporated desirable features of codes-based or certification-based reporting. While none of the alternatives that were considered are perfect, it is likely that any of them could be strengthened by adding independent review and reporting on labour standards. Again, this suggests to the Conference Board that public disclosure of supply chain information needs to be carefully considered: it is not a tested policy instrument in the global apparel industry.

This report suggests a number of ways to strengthen the various proposals and alternatives and considers international mechanisms and examples brought forward by stakeholders. Concerns that too much proprietary information would be available in the public domain could be addressed by ensuring that such information is released confidentially and only by the appropriate agencies in cases when poor labour practices are documented. Concerns that the various proposals do not provide the required information on the incidence of fair labour practices could be addressed by combining the mandatory disclosure principles with mandated codes of conduct, supplier certification initiatives, and/or audited reporting on practices. Programs and initiatives could be devised to encourage, if not require, disclosure of the supply chain practices promoted by Canadian apparel retailers and manufacturers. Indeed, the report suggests that a combination of information, verification, and reporting initiatives on the issue of fair labour standards, combined with appropriate consequences when improper labour practices are uncovered, would likely be much more effective than any of the other initiatives currently suggested or implemented to address this issue.

Since labour standards in plants making products sold in Canada is an important issue, the Canadian government needs to think hard about whether Canada should become a leader in this area. In particular, the government needs to rethink the scope of its policy objective in light of this report. It needs to consider whether it wants to limit its efforts to the apparel industry. It needs to decide the extent to which fair labour standards in apparel production is a global issue and the extent to which Canada wants to play a role in improving them. Canada does not have the market power to single-handedly change labour practices in countries that supply their products through trade. However, it may want to play a leadership role by example or by exerting its influence in world affairs (for example, through development cooperation initiatives or support of international institutions).

The stakes are high. If Canada and the developed world insist on labour standards that are too high, less developed economies will be unable to participate in global trade in apparel. If they are too low, workers get exploited and countries with dismal records go unpunished. In the end, a higher level of development is likely the only and best way to eradicate unfair labour practices, and it is not up to the Canadian apparel industry to single-handedly address the issue. A concerted effort by the entire government apparatus, combined with similar efforts around the world, is what will help most to resolve the issue of fair labour standards. In contributing to the solution or in taking a leadership position, Canada needs to balance the needs of the Canadian apparel industry with those of the global apparel industry and those of developing countries that are manufacturing apparel for the industry.

If the Canadian government wants to play a leadership role, the Conference Board would encourage all stakeholders to contribute to a solution by defining an achievable objective that is acceptable to all stakeholders. Once a final objective has been set by government, it will be possible to bring together the efforts of all stakeholders to ensure that apparel sold in Canada is manufactured using fair labour practices wherever, worldwide, the manufacturing takes place.

1. Introduction

The Ethical Trading Action Group (ETAG) is a coalition of church, labour, and non-government organizations (NGOs) concerned about "sweatshop" labour practices, or ethical sourcing, in the manufacture of apparel. Members of ETAG represent a broad coalition of stakeholders, including religious groups, the Canadian Autoworkers Union, the Canadian Labour Congress, Oxfam Canada, the Maquila Solidarity Network, and the United Steelworkers of America.

ETAG has made a proposal to amend the Textile Labelling and Advertising Regulations of the *Textile Labelling Act (TLA)* that would basically require mandatory disclosure of manufacturing sites on labels of apparel sold in Canada. The details of the disclosure are unclear and vary depending on which ETAG stakeholder you talk to. At a minimum, ETAG stakeholders are looking for disclosure of the location of the final assembly site for each garment. Some ETAG supporters are looking for more detailed information, including the location of shops responsible for cutting, sewing, finishing, assembly, pressing, laundering, and shipping (if this is not being done at the final assembly site).

Current regulations require only the disclosure of one legal entity: the entity "by or for whom" the consumer textile product was manufactured or made. The identity of this entity, or dealer, may be disclosed by providing the name and full postal address under which the dealer normally conducts business or, for a dealer in Canada, an identification number obtained by applying to the Competition Bureau. This identification number, commonly referred to as a CA Number, can be used to look up the full dealer name and postal address without charge on a database maintained by the Bureau on its web site. Each entity or dealer registers for a CA Number by completing an application form and filing it, along with an administrative fee, with the Competition Bureau. The Bureau then uses this information to investigate complaints of violation of the Textile Labelling and Advertising Regulations of the TLA. In effect, the CA Number identifies the legal entity responsible for a garment.

ETAG feels that public knowledge of the exact locations of manufacturing facilities would lead companies to self-regulate. Concerned members of the public, particularly ETAG supporters, could investigate those manufacturing locations and publicize any labour practices that are of concern to them. The expectation is that concerned consumers would somehow access and use the information resulting from investigations of manufacturing locations as they shop for apparel. The proposal stems from the conviction that Canadian consumers want products made under decent, legal, and humane working conditions, defined by most ETAG supporters as full compliance to International Labour Organization (ILO) standards. There is also recognition that there is strong opposition to sanctions-based approaches to labour standards compliance.

The issue is a timely one. On December 19, 2002, stories appeared in the media based on a news release claiming that major Canadian retailers support sweatshops as part of their sourcing policies. The two retailers quickly responded by describing the rigorous codes and associated processes they use to ensure their suppliers don't support these types of practices and to verify that the suppliers within their supply chains follow the codes rigorously.[1] The news release noted that without readily available information about manufacturing locations it was difficult for interest groups to verify retailers' and manufacturers' claims. It is this type of information that the ETAG proposal seeks to make public.

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[1] For example, please see the social responsibility pages provided by The Hudson's Bay Company at http://www.hbc.com/hbc/socialresponsibility/intro.asp.

The issue is not new. At the turn of the century, many industrialized countries supported industrial policies that would not meet today's ILO standards. Over time, the rules and practices in those countries changed, and labour standards have become more acceptable. The problem is that many countries around the world have yet to fully adopt the types of labour standards being promoted by the ILO, either because they disagree with one or more of the standard items or because they feel their current economic situations call for lower standards. With the advent of global apparel trading and what has been called the great garment war[2], many of the participants in the Canadian apparel industry have had to start sourcing products from countries where average wages are extremely low and where working conditions differ significantly from those in Canada. As a result, the industry has become exposed to claims that it is supporting substandard labour practices, such as child labour.

The stakes are high. If Canada and the developed world insist on labour standards that are too high, less developed economies will be unable to participate in global trade in apparel. If they are too low, workers get exploited and countries with dismal records go unpunished. In contributing to the solution or in taking a leadership position, Canada needs to balance the needs of the Canadian apparel industry with those of the global apparel industry and those of developing countries that are manufacturing apparel for the industry.

1.1 Objectives of the Report

This report was commissioned by the Competition Bureau in order to effectively assess amendments proposed by ETAG to the Textile Labelling and Advertising Regulations of the *TLA* that would require mandatory disclosure of manufacturing sites on labels of apparel sold in Canada.

The purpose of the resulting project is to determine what policy alternatives would achieve the objectives of the ETAG proposal and what are the implications for consumers, government, domestic industry, trade, and trade agreements if the ETAG proposal or any of its alternatives are implemented. In addition, the report addresses several related issues of concern to the Competition Bureau, including:

- The mechanics and implications (including resource implications) of amending the TLA and/or regulations and adjusting the current CA Number system;
- The steps and costs for industry to comply, including the ability of manufacturers and importers to pass on added costs to downstream commercial customers;
- Any benefits and possible costs to consumers;
- The cost, resource, and process implications for government to implement disclosure requirements, monitor compliance, and take action if non-compliance is detected;
- The possibility of pressure on government to apply similar measures to other industries (e.g., footwear, toys, others) whose products may also be made under sweatshop conditions;
- The impact on competitiveness and growth on all sectors of the domestic textile and apparel industries, including future investment;
- The impact on competition in the marketplace, including advertising practices, consumer choice, and prices; and
- Any linkages for action on other Corporate Social Responsibility (CSR) fronts (health, safety, human rights, consumer protection).

This report would have been relatively simple if the objective was merely to discuss the issue of disclosure of manufacturing locations. The Conference Board could simply have looked at what other countries are doing in this regard and at the benefits and risks of copying them for the competitiveness of

[2] Refer to Global Guide to Winning the Great Garment War, David Birnbaum, Third Horizon Press, Hong Kong, March 2000.

the apparel industry in Canada. But stakeholders told the Conference Board that the disclosure proposal reflected a concern about the use and promotion of fair labour standards in the apparel industry. This is not such a simple issue.

The Conference Board found that fair labour standards is a vague phrase whose definition varies from stakeholder to stakeholder. Some stakeholders see it as encompassing all aspects of work, including what they would consider a living wage. Other stakeholders are content to limit it to what is legally required in the jurisdiction of manufacture. Since some jurisdictions don't have minimum wage laws or enforce minimum labour standards, such standards may be substantially lower than those in use in Canada or supported internationally by the ILO.

The Conference Board also found that the media often tends to oversimplify the issue of fair labour standards by focusing on child labour, perhaps because this is the most abhorrent aspect of the unacceptable labour practices in use in certain countries. Indeed, there is broad consensus about child labour in Canada, and large, socially minded corporations prefer not to source from a country that condones such practices and do not wish to be seen to support them in any way. Yet, this is what the media focuses on—while, in reality, many stakeholders have a much broader view of fair labour standards, including fair wages, hours of work, collective bargaining and freedom of association. It is not clear from the material collected by the Conference Board that a significant proportion of Canadian consumers of apparel would wholeheartedly support all of the aspects of fair labour standards that many stakeholders support.

1.2 Limitations of the Report

Obviously, the scope of the issue is very broad. In the time allotted, there was no way for the report to accurately capture and verify all of the perspectives of shareholders relative to the issues it covered. Instead, this report interprets the perspectives of stakeholders, based on discussions that took place and on the conclusions reached by groups of stakeholders with the Conference Board around the ETAG proposal and its alternatives.

Some stakeholders might disagree with our interpretations of their perspectives. Indeed, words may be inadequate to accurately capture the full richness of the feedback received during the process that led to the creation of this report. The authors would like to apologize in advance for any errors and omissions contained herein, which are ultimately the responsibility of the authors, not of the Conference Board of Canada. Where errors in interpretation do exist, we strongly encourage stakeholder groups to make their views known to government, either as part of future consultations in this policy area or in response to particular sections of the report.

The Conference Board makes no claims as to the accuracy of its interpretation. The work is meant to help the Competition Bureau respond to the ETAG proposal, not to provide a definitive policy review. This report was not written to recommend a course of action based on stakeholder consensus. In fact, there is no stakeholder consensus around the main issues it raises, except at the broadest of levels, and the Conference Board does not think broad consensus is possible without considerable flexibility on the part of all stakeholders.

To effectively inform the Bureau on the issue of disclosure of manufacturing location and to address the stated objective, which is to promote the use of fair labour standards in the apparel industry, the Conference Board conducted extensive literature searches, interviewed more than 30 stakeholders directly, and held five focus group sessions to discuss emerging alternatives. This report provides our

analysis of the desired policy objective, criteria, and alternatives that relate to the broader issue of fair labour standards, as discussed during interviews and focus group sessions with stakeholders. It also provides our interpretation of the information necessary for the Competition Bureau to effectively evaluate the ETAG proposal relative to a broader objective that enjoys the support of most stakeholders. The report reflects the use of the Optimal Policy Mix (OPM) framework, which was developed by the Conference Board in 1998 to deal effectively with similarly divergent stakeholder perspectives in environmental policy making.[3]

The Conference Board believes that the OPM framework provides the rigour needed to better understand stakeholder main and secondary objectives. The OPM framework also provided an effective process through which to address the complex and sometimes divergent concerns of stakeholders. The Conference Board believes the OPM process effectively:

- Clarified the policy objective;
- Helped us in the design and review evaluation criteria; and
- Led to the suggestion of a number of possible alternative policy mixes, which spurred progress to the ultimate objective, by providing consumers with timely information about the labour practices used by retailers and manufacturers of apparel sold in the Canadian market.

1.3 The Report Structure

This report first provides an interpretation of the various objectives of stakeholders and compares the objectives to the emerging policy objective, referred to in the report as the ultimate objective. The report focuses on the immediate objective of the ETAG proposal—disclosure of manufacturing location information—but only so far as it contributes to the ultimate objective. It then provides a summary assessment of the strengths and weaknesses of the ETAG proposal, including historical and stakeholder perspectives around the issue of improving working conditions in facilities that produce apparel, particularly those that might be using deficient labour practices (what many call sweatshops). The report glances at the issues and risks related to the objective and describes efforts aimed at improving labour practices in Canada and around the world. The report then describes the criteria it uses and provides the assessments of stakeholders on the effectiveness of six proposals (the ETAG proposal and five alternatives) that emerged during the OPM process. The report concludes by suggesting how the best components of each proposal (those that we deem to be most effective) could be combined as part of an optimal policy mix, aimed at achieving the ultimate policy objective. This final exercise—speculating on the OPM—goes beyond the consultative process followed for the report and is meant to provide new ideas to be used in future policy consultations with, and for assessment by, stakeholders, not as final recommendations to government.

[3] See *The Optimal Policy Mix: Matching Ends and Means in Environmental Policy Making* (Ottawa: The Conference Board of Canada, June 2000).

2. Stakeholder Discussion to Discover the Ultimate Objective of the Policy

This section offers the Conference Board's interpretation of the feedback of stakeholders on the policy objectives behind the issue of ethical labelling, with special emphasis on labour standards, as described by ETAG supporters. The ETAG proposal focuses entirely on the need for disclosure of manufacturing location. However, the stated purpose of the disclosure is to allow consumers access to better information about the labour standards used in the manufacture of apparel destined for the Canadian market. As a result, this is the topic that has become the main issue of the report: disclosure of manufacturing locations is a means to an end, and not, in and of itself, the policy objective.

As described above, the Conference Board suggested using the OPM framework to organize stakeholder discussions around the ETAG proposal and the issue of fair labour standards in the apparel industry. The OPM process places a significant amount of emphasis on the definition of the policy objective prior to policy choice. As a result, the policy objective became a significant point of discussion by stakeholders.

The OPM is based on a fairly rigorous framework, according to which one needs to clearly define the end result of a policy (the objective) before evaluating, deciding, or designing the means (the policy instruments) of achieving the end.[4] The objective-setting process is iterative. Practitioners return to it throughout the OPM process. This is because design issues or even analysis of what is possible in a given context often cause policy makers to reconsider the scopes of their objectives. This is exactly what happened in this case, and the objective was changed substantially three times. Box 1 describes how the Conference Board interpreted the objective statements at various stages of the process, based on stakeholder feedback.

Box 1: Defining the Objective of Policy

Objective, as drafted for the interviews (based on implied ETAG objectives)

To help consumers identify manufacturing facilities and suppliers of products to the Canadian market so that they may research the labour practices of those manufacturers and suppliers and disseminate information about those practices to individuals and groups in Canada

Objective as redrafted for the focus group sessions

The ultimate objective is to contribute to improving working conditions in manufacturing facilities for apparel sold in Canada. The immediate objective is to provide Canadian consumers with accurate information about the location and labour practices of suppliers of apparel to the Canadian market, to support purchase decisions based on more complete information.

Final objective for the report

Ultimate objective

To find a means of addressing a serious issue of concern: the use and promotion of fair labour standards in respect of apparel sold in Canada.

Objective being pursued by the ETAG proposal

The immediate objective is to provide Canadian consumers with accurate information about the location and labour practices of suppliers of apparel to the Canadian market, to support purchase decisions based on more complete information.

2.1 Defining the Policy Objective

The objective setting exercise proved to be particularly challenging because of the broad range of views around this issue, the diversity of stakeholders, and their fidelity to their various positions. In the process of talking about the

[4] For more information about the Optimal Policy Mix process, please see Chapter 6.

ultimate and immediate objectives, The Conference Board also heard about numerous alternative objectives that stakeholders wanted to pursue but which we interpreted as somewhat tangential to the ultimate objective. For example, one stakeholder believed that promoting human rights should be the ultimate objective of the proposal. Although related, this idea was viewed by many stakeholders to involve much more than the issue of ethical labelling in the apparel industry. In the end, then, the report does not attempt to capture all divergent perspectives, avoiding those without a direct impact on the issue of labour standards in the apparel industry.

Put another way, this report is about finding means to achieve the ultimate objective of the policy initiative, as clarified through the OPM process, as follows:

> The ultimate objective is to find a means of addressing a serious issue of concern for many Canadians: the use and promotion of fair labour standards in respect of apparel sold in Canada.

Because it was initiated as a result of the ETAG proposal, this report also assesses the proposal's immediate objective. This objective, which turned out to be broader than was originally described by ETAG in the documentation that was reviewed by the Conference Board, emerged from discussions with stakeholders. The initial objective was limited to disclosure of manufacturing location, whereas stakeholders confirmed that the disclosure proposal was meant to reveal information about labour practices. In the end, the report's statement of the immediate objective contains both elements, as follows:

> The immediate objective being pursued by the ETAG proposal is to provide Canadian consumers with accurate information about the location and labour practices of suppliers of apparel to the Canadian market so as to support purchase decisions based on more complete information .

Both objectives that emerged from the consultations reflect a desire for consumer information that is much broader than manufacturing location alone—the main requirement addressed by the current ETAG proposal. In particular, stakeholders support providing consumers with information that characterizes the labour standards used in the manufacture of apparel sold in Canada.

This report and the objectives that form its basis assume that consumers want and would use such information when making purchases. Some stakeholders confirm they are convinced that consumers want this type of information. Others stakeholders report that only a subset of consumers want and would use this type of information. The reality is unclear, and the Conference Board was not able to find, in its literature review, conclusive evidence that consumers want and need information about all of the aspects of labour standards that were mentioned by stakeholders. In fact, the research that is extensively quoted by ETAG in support of the proposal focuses on a much narrower issue, namely the issue of forced and/or child labour.

Based on the work of the Conference Board, it is fair to say that although the ultimate objective outlined above enjoys broad stakeholder support, the immediate objective does not. Furthermore, stakeholders strongly disagree on the means to achieve both the immediate and ultimate objectives. The Conference Board interprets this lack of agreement as partly the result of other objectives of stakeholders that may prevent them from agreeing on the best way to achieve the ultimate objective. The next section presents our interpretation of possible alternate objectives.

2.2 Other Objectives of Stakeholders

From time to time, claims and counterclaims about the fairness of labour standards used by the apparel industry in Canada emerge in the media. Consider, for example, the media coverage that attended the release of the Sweatshop Retailer of the Year Awards for 2002 by the Maquila Solidarity Network (MSN)

on December 19, 2002.[5] In its news release, MSN criticizes one large Canadian retailer for no longer sourcing apparel in the Southern African country of Lesotho. This was "the deciding factor in MSN's decision" to target the retailer for the dubious awards. In the same release, MSN criticizes another large retailer for sourcing from "over 20 factories in Lesotho alone," despite "reports of serious worker rights abuses in most of those factories." So, Canadian retailers should not source from factories in Lesotho because of unfair labour practices. Yet, the release also criticizes a retailer because it no longer uses factories that presumably used labour practices that would also be seen as unfair.

This example of an apparent contradiction in the report demonstrates the degree to which stakeholders are driven by alternate objectives when looking at the issue of fair labour standards. What do fair labour standards look like? What information do Canadian consumers require about fair labour standards? What should Canadian retailers and consumers do when informed about the presence of unfair labour standards?

Far from being straightforward, the immediate objectives of the ETAG proposal raise many questions that speak to the objectives of consumers, NGOs, and governments relative to fair labour standards. This section provides our interpretation of the ultimate, immediate, and alternate objectives that drive stakeholders around the issue of fair labour standards. The section was based on the explicit and implied objectives that emerged from the feedback received during the interviews conducted by the Conference Board, and as part of focus group sessions. These interpretations have not been vetted by stakeholders.

The Conference Board believes that disagreements of key stakeholders around objectives basically boil down to the requirement to disclose details about manufacturing locations. Indeed, disagreements exist around the amount of disclosure even within stakeholder groups.

For example, ETAG stakeholders disagree on how much disclosure is necessary. Some want the disclosure to include addresses for all production facilities involved in the basic steps of production. This would include cutting, sewing, assembly, finishing, laundering, pressing, and shipping. Others are not so concerned about each production step, but would rather disclose the address of the final assembly facility.

Similarly, most industry stakeholders don't believe that disclosure of manufacturing addresses is necessary to improve working conditions in the industry (where it needs to be improved). They view the disclosure of location as a "fishing expedition" on the part of labour, tantamount to "expropriation of supply chain information," which they consider to be "proprietary." However, this view is not shared by all industry players. Some industry stakeholders, particularly those with limited or specialty supply chains, suggest they might be willing to disclose manufacturing locations as long as the other companies in the industry must do so.[6] Still others, typically those who deal through agents and/or supply chain intermediaries, admit not being entirely sure of the exact location of their apparel suppliers. Indeed, supply chains in the apparel industry are so global, so fluid, and so complex that there are often no practical ways to really know, at all times, the exact supply chain paths taken by individual pieces of apparel.[7]

The upshot is that key stakeholders are unlikely to agree on a means of achieving the ultimate objective, particularly with respect to disclosure of manufacturing locations.

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[5] See the Maquila Solidarity Network (MSN) website, the relevant page at Feb. 2, 2003 was http://www.maquilasolidarity.org/awards.htm.

[6] See the news release as at Feb. 2, 2003 was http://www.maquilasolidarity.org/campaigns/nosweat/disclosure/retailers.htm.

[7] For a description of the current state of the global apparel industry, read the book by Birnbaum.

This is the situation despite several difficult months of genuine effort by all sides to reach a consensus around a voluntary initiative aimed at addressing the issue of labour practices of the clothing and apparel industry. In the end, this voluntary initiative—characterized as a negotiation by some—failed to result in agreement. Stakeholders from both sides blamed the failure on the demand for complete disclosure of manufacturing location and, to a lesser extent, on the demand for complete adherence to ILO standards when key apparel supplier countries, such as China, don't completely adhere to them.

The failure of this initial process served to alienate the key stakeholders from each other, with the result that some industry stakeholders are no longer willing to consider being in the same room as some ETAG supporters.

Yet the Conference Board believes stakeholders are not that far apart in terms of their willingness to work towards their ultimate objective, in part because ETAG stakeholders already support the ultimate objective and major companies in the industry report they have already been working toward it. Indeed, this is what Birnbaum says in his book.[8] The Conference Board believes stakeholders may need to abandon some of their alternate objectives to make progress towards the ultimate objective.

2.2.1 Apparent Alternate Objectives of ETAG Stakeholders

A clear benefit of the proposal for ETAG supporters is that the information made available about manufacturing locations will greatly facilitate the primary functions of their respective organizations. In the view of such stakeholders, manufacturing location information is the great facilitator, and ETAG stakeholders often came back to the issue of disclosure of location, even when proposals not based on disclosure of manufacturing locations were being discussed. This is because disclosure, in and of itself, is an important objective for ETAG stakeholders. The Conference Board offers the following interpretations of the feedback from selected ETAG stakeholders to back this up:[9]

- The labour organizations that support ETAG (i.e., the Canadian Labour Congress, UNITE, etc) need location information partly to facilitate offers of union representation to apparel workers. Stakeholders such as these seek detailed information about location (including cutting, sewing, finishing, assembly, pressing, laundering, and shipping) partly because this maximizes the number of potential locations where the union movement could become more involved. This objective is consistent with the ultimate objective in as much as the need for information is based on a belief that labour organizations are best able to protect workers rights and pressure business to improve labour conditions in the industry. Disclosure of labour practices without location detail tends to be viewed negatively by such stakeholders, even when it may also contribute to consumer information about the existence of fair labour standards in purchases of apparel—because it does not facilitate the involvement of labour organizations in the solution.
- ETAG stakeholders that represent religious groups or interest groups (such as the Maquila Solidarity Network or international aid agencies) appear to want the location information to publicize and better target their efforts. Such groups tell us their main objectives are to work with or coerce the apparel industry to make a difference in local working conditions. Location information would also be useful in providing examples of Canadian retailers and manufacturers "abandoning" suppliers instead of working with them to improve local working conditions. Representatives from such groups suggest they are flexible about the amount of location detail they require. Presumably this is because the additional detail on the location of key components of the production process (as described by labour groups) is less

[8] Birnbaum, page 152.

[9] These observations are based on Conference Board impressions and analyses of issues raised by stakeholders. These views have not been vetted with stakeholders and as such may not be supported by stakeholders.

valuable to them. This group of stakeholders also believes that information about manufacturing locations would force apparel retailers and manufacturers to adopt longer term relationships based on Canadian labour practices within their supply chains. This, in turn, would help them alleviate poverty around the world and improve conditions in countries where apparel workers are being exploited.

These interpretations are not meant to diminish each stakeholder's commitment to the ultimate objective. Nor are ETAG stakeholders in any way alone in pursuing alternate objectives. Rather, outlining alternate secondary benefits of disclosure helps explain why disclosure of location, *per se*, has become as important for a subset of stakeholders as the labour conditions at those locations.

2.2.2 Alternate Objectives of Apparel Industry Stakeholders

The apparel industry's perspectives on disclosure and their desire to protect proprietary information similarly affect industry stakeholders' perspectives of the various proposals. A number of alternate objectives emerged from discussions with industry stakeholders.

Protection of proprietary information: A trend in retailing in the past 10 years or so has been the increasing degree to which supply chains provide competitive advantage to retailers or manufacturers. As a result, the success of industry leaders is now commonly being associated with their ability to source goods from name brand manufacturers cheaper, quicker, and more effectively than competitors. It is not that the goods are different or better—leading retailers are just better able to keep them rolling off the shelves faster with timely product replenishments, slightly better prices (i.e., $4.77 instead of $4.99), and better staff support. With knowledge about supply chains widely viewed as competitive proprietary information and with the escalating costs of setting up global supply chains, a key objective of industry stakeholders becomes keeping detailed information on supply chains out of the public domain, so that competitors, retailers, and labour unions cannot use it for competitive advantage. For example,

- Competitors could use the proprietary information to set up in the same manufacturing locations, steal designs at those manufacturing locations through industrial espionage, or poach key workers from those locations;
- Important clients could use the information to more easily direct source high volume/high margin items currently sourced through manufacturers or agents; and
- Labour unions could use the information to systematically target and attempt to organize all of the workers of a particular manufacturer or retailer at multiple locations around the world. This could disrupt product flow, making it necessary to hire additional staff (for example, to undertake simultaneous labour negotiations at several locations).

Management of Risk: Industry stakeholders are concerned about the risk of misrepresentation or claims of wrongdoing. Reputations are valuable. They take a long time to build but only a short time to destroy. Industry stakeholders have told us that having information about manufacturing location readily available to anyone also makes them vulnerable to misinformation or negative uses of that information. For example,

- Labour activists could use claims of wrongdoing at one location to target other locations and disrupt production;
- Competing unions could simultaneously target (or raid) specific or particularly desirable manufacturing locations, making claims along the way that suit their purpose;
- NGOs and local aid agencies could use single events of non-compliance with standards and misrepresent the event as company policy in the public domain; and
- Interest groups might use unacceptable situations in the distant past to claim further wrongdoing or criticize the company for moving away from an unacceptable situation.

Complexity: Some industry stakeholders have complex supply chains encompassing tens of thousands of items manufactured in hundreds of locations around the world. While they concede that firms with limited numbers of geographically concentrated facilities can claim to be in control of every aspects of production, they are wary about making similar claims of complete control over facilities around the world. Birnbaum talks about the supply chain for sweaters spanning 5 countries and 29,000 miles, a path that Birnbaum characterizes as "the normal pattern of any American sweater manufacturer."[10] Yet, individual retailers report managing thousands of such supply chain patterns for tens of thousands of apparel products.[11] It is difficult to imagine how a head office in Canada could be fully aware of all of the labour issues that such a supply chain would create, day in and day out.

Large complex firms in the apparel industry genuinely believe—and this is supported by Birnbaum in his book—that the best policies in the world and the best enforcement money can buy cannot guarantee perfect compliance everywhere.[12] Small firms, on the other hand, generally lack the time and resources needed to verify the performance of every agent and importer they use to access suppliers. Both are extremely leery of leaving this task to outsiders who might have their own objectives during compliance audits.

From time to time, the internal verification processes of apparel industry participants uncover instances of policy non-compliance. Management's job is to be vigilant and respond on a timely basis to emerging issues of quality, cost, and adherence to production standards. Compliance with overall production codes and local labour standards are part and parcel of the efforts of the apparel industry to control supply chains, and most firms report that they enforce codes and procedures for manufacturing facilities within their supply chains. Industry stakeholders report they conduct unannounced compliance audits wherever products are manufactured and respond to the findings of those audits all over the world. Yet, the significance of these efforts is often lost when a single event is turned into what they characterize as a "false claim" of a systemic propensity to support unacceptable behaviours in the name of profit. The objective of protecting supply chain information is partly to minimize the risk of claims, particularly since false claims can be just as damaging as real events.

This is not to suggest in any way that the industry does not value the ultimate objective or even parts of the immediate objective that relate to providing information for consumers. Indeed, industry stakeholders told us that consumers who request information about supplier selection and compliance programs are often impressed and become very supportive of those efforts. Rather, industry's perspective is that to ask it to make manufacturing location widely available to consumers also makes the same information widely available to competitors, pressure groups, and retailers/clients. This greatly reduces the value of supply chains, a key tool of the trade. The damage this would do would be compounded if Canada was the only country in the world to remove this key competitive advantage. In effect, the supply chains of the Canadian industry could become targets for all other competitors in all other countries. This is a major reason retailers and manufacturers are extremely concerned and reluctant to participate in any process that would publicly disclose details about their systems and supply chains.

Clearly, the alternate objective of industry stakeholders is first and foremost preservation of their commercial franchises. To help preserve the commercial franchise, they do not disclose manufacturing locations. This becomes their primary objective even when they support the ultimate policy objective. Indeed, many would say millions are already being spent on ensuring compliance with employment standards.

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[10] Birnbaum, page 13.
[11] For example, The Hudson's Bay Company reports that it sources products from approximately 1,000 vendors representing 3,000 to 5,000 factories in 16 countries. The relevant web page as at Feb 2, 2003 was http://www.hbc.com/hbc/socialresponsibility/ethical.asp.
[12] Birnbaum, page 158.

2.2.3 Alternate Objectives of Government Stakeholders

Governments and their agencies must also balance alternate objectives with the desire to contribute to the use and promotion of fair labour standards within their mandates.

The ultimate objective speaks directly to improving labour standards. It is a global issue, requiring a global solution, as much as it is an issue that Canadians and their governments want to contribute to solving. Canadians contribute to the solution through provincial governments that implement and enforce strong labour standards in Canada. Canada contributes to the solution by ensuring labour standards agreements exist in parallel with its trade initiatives. As a relatively small country contributing to a global solution, Canada needs to align its efforts with those of other countries. If its objective is to show leadership, it needs to be seen as pushing the envelope on this particular issue. In other words, there are many objectives at play and the various government stakeholder perspectives around the use and promotion of fair labour standards reflect those objectives.

Clearly, however, the federal government's objectives on this issue depend on the mandate of the department or government stakeholder contacted. For example:

- Industry Canada's mission "is to foster a growing competitive, knowledge-based Canadian economy." Within the context of the ETAG proposal, the department is concerned about putting in any regulatory regime that will impede the development and prospects for the apparel industry or one that will be impossible or costly to enforce. It is concerned about the impact on competitiveness. The apparel industry has already had to change substantially with the elimination of trade barriers and the globalization of apparel supply chains. Industry Canada is already working to assist the apparel industry, for example by introducing its Canadian Apparel and Textile Industries Program. It is within this context that Industry Canada must balance its competitiveness, innovation, and promotion objectives—what we call alternate objectives in this section—against those that address the use and promotion of improved of working conditions, where those conditions are deemed to be unfair. Complicating this issue is the fact that labour standards are an area of provincial responsibility in Canada and of sovereign government responsibility outside of Canada;
- The Department of Foreign Affairs and International Trade (DFAIT) is primarily concerned with "developing and implementing strategies to promote the Government of Canada's agenda abroad: global peace and security, prosperity and employment for Canadians." On the trade front, it is primarily concerned about "assisting and encouraging Canadian companies to enter the export market, develop new markets, or improve existing trading relationships, creating jobs and prosperity for Canadians." DFAIT has divisions responsible for corporate responsibility, human rights, and humanitarian affairs.[13] It has initiated the Least Developed Countries (LDCs) Market Access Initiative, an initiative to eliminate duties and quotas from 48 LDCs that includes new measures for imports of textiles and apparel products. As such, DFAIT should be a key participant in any initiative whose objective is the use and promotion of fair labour standards in the apparel industry. Yet the focus on labelling and disclosure tends to exclude DFAIT from the initiative, and this is a concern, particularly when proposed regulatory changes for apparel have implications for trade..

When discussing NAFTA, stakeholders offer conflicting legal opinions, claiming both that there is potential and no potential for a trade dispute following a requirement to disclose manufacturing location as a condition of market access in Canada. Some have found a potential trade issue relating to Section 11 under expropriation of property—in this case, supply chain information. Others claim that there is no potential trade issue related to NAFTA as long as all industry players are subject to the same treatment. In

[13] For example, see *Trade, Employment and Labour Standards*, Discussion Paper, February 2001, available as at Feb 2, 2003 at www.dfait-maeci.gc.ca/tna-nac/social-en.asp

addition, some stakeholders raise a concern about protectionism, since countries may claim that special Canadian requirements for disclosure around manufacturing location and labour standards (and any associated consequence) are nothing more than policies aimed at protecting and favouring its own apparel workers (who already adhere to the standards). The concerns around this argument are particularly significant if disclosure rules to treat imports of apparel are seen to target imports from LDCs covered by the Market Access Initiative.

Obviously, Canada has a well defined strategy for trade and support of economic development with many LDCs because it believes development this is the best way to improve conditions in such countries. Improving labour standards are often discussed in parallel with the trade initiatives, a key feature of negotiations. The apparel industry features prominently within the initiative, both in terms of imports and in terms of support to the Canadian apparel industry in the form of the Canadian Apparel and Textile Industries Program, sponsored by Industry Canada. The feedback does suggest that the apparel industry figures prominently in trading patterns for LDCs. Birnbaum states in the preface to his book that "virtually every developing nation looks at garment making as the first step in building an export-based industrial economy." This, he says, means that "the number of suppliers are rising geometrically." Import quotas are also a key feature of trade in apparel, albeit a feature slated to be abolished in 2005 as part of World Trade Organization (WTO) negotiations. Apparel quotas have a significant impact on apparel trade patterns and costs.[14]

Finally, some comments on the Competition Bureau, which of course has its own alternate objectives. By being asked to review the ETAG proposal, it is in effect being asked to delve not only into the disclosure issue but also into the issues of labour standards, child labour, and acceptable minimum wages in developing countries, since these are the issues that the proposal for disclosure of manufacturing locations is trying to address. These are difficult issues for the Bureau in the Canadian context—**indeed,** the responsibility for the ultimate policy objective tends to reside with other departments such as Human Resources Development Canada (HRDC), DFAIT, with other agencies such as the Canadian International Development Agency (CIDA), or with other groups within Industry Canada.

The immediate objective of the ETAG proposal, which is to provide Canadian consumers with accurate information about the location and labour practices of suppliers of apparel to the Canadian market. This is not part of the current textile mandate of the Competition Bureau. First and foremost, the Bureau is the competition watchdog of government. Its main role is to "promote and maintain fair competition." It may not even be a current consideration in the work of the Competition Bureau in Textiles except where inaccurate or misleading statements are being made in advertising (see Box 2). The Bureau is therefore concerned that the objectives of the ETAG proposal expand considerably the scope of its work, i.e., to labour practices. This concern is expressed at several levels of its textiles activities, including:

- A concern about the expansion of the scope of the *TLA*, which is currently described on its web site as:
    - to protect consumers against misrepresentation in the labelling and advertising of textile fibre products; and
    - to enable consumers to choose textiles on the basis of fibre content.

[14] Birnbaum, pages 33-36.

In its simplest implementation, the ETAG proposal is simple: to require additional information on product manufacturing location as part of the CA labelling requirements. But this information does not appear to fit into the current scope of the *Act*. This suggests the need to add to the scope of the *Act* to include wording to the effect that the *Act* also aims to enable consumers to choose textiles on the basis of the labour practices used in their manufacture. Adding this or similar wording would provide scope for requiring such information to be disseminated to consumers.

Box 2: Selected Textiles Guides Provided by the Competition Bureau

- Guide to Textile Labelling and Advertising Regulations
- Labelling Assessment Tools - A Source of Information + Work Tool all in one
- Labelling of Textiles - An Overview for the Textile Trade
- Textile Care Instructions - An Overview for the Textile Trade
- Guide to the Canadian Care Labelling Program
- Guide to the Labelling of Down and Feather
- Guide to the Advertising of Consumer Textile Articles
- Labelling of Fabric Sold at Retail
- Federal Labelling Requirements for Upholstered Furniture
- Follow the Signs (Canadian Care Labelling System) - Chart
- Follow the Signs (Canadian Care Labelling System) - Brochure
- Search our CA Number Database - Looking for Textile Businesses in Canada?

Concerns about the resulting expansion of its areas of focus relating to textiles. As far as we could determine, neither the issue of labour conditions under which the textiles are produced nor details about product manufacturing locations (beyond country of manufacture) are currently part of the implementation of the textile requirements managed by the Competition Bureau (see Box 2). As a result, the ETAG proposal broadens the Bureau's mandate from consumer protection in Canada to providing consumers with information about labour conditions used by the apparel industry.

A concern about the resulting expansion of the CA Number database. This concern reflects the fact that the ETAG proposal fundamentally shifts government policy with respect to identifying a person or organization that takes legal responsibility for the goods. Currently, dealers of most consumer commodities are allowed to label the name and address of the person "by or for whom" the product was manufactured to satisfy their legal obligations. The ETAG proposal removes this option for apparel and would, in effect, require the label to state the person "by AND for whom" the product was manufactured. Currently, this level of detail is only required in exceptional circumstances, such as with certain meat products, where the nature of the product requires the actual registered establishment that manufactured the goods to be shown on the label (by means of a registered establishment number). Since there is little rationale for applying this requirement to only the apparel industry, the change may also lead to additional pressures to amend other federal legislation that address the labelling of manufactured consumer goods. Any such shift in mandate would result in considerable additional costs for maintaining the database.

A concern about the level of detail required to do a credible job for consumers. To effectively inform customers of apparel about working conditions, one needs to report not only on what the working conditions are in absolute terms but also in relative terms. Birnbaum illustrates this point in its Case Study 27 Nike: The Philip Morris of Shoes. In that case, the author talks about describing Nike operations in Vietnam and Indonesia, where wages, although poor by U.S. standards, are well above the average wages for those in Indonesia and Vietnam who sew for a living.

In its efforts to support information about labour standards, should government require reporting on wages in Vietnam and Indonesia, reported in the book to be U.S. $1.84 a day and U.S. $2.60 a day, respectively? Should the comparator be local standards in the country or North American Standards

(Birnbaum reports that the wage rates, above, were 40 per cent higher than normal industry wages at the time)? Should the requirements include adherence to ILO standards or to local standards, considering that not all apparel producing countries adhere fully to ILO standards?

It is not difficult to imagine the type of information required by Canadians who genuinely want to compare the fairness of the labour standards used in Canada with those used in developing countries. But the level of detail needed is of concern for government because it would add immensely to the cost of running the database, and change the nature of the information it administers. With the additional information would come expanded responsibilities for dealers and for the government itself.

In some implementations of the ETAG proposal, the government merely presents the location information, with perhaps links to sites where consumers can find further information about the use of fair labour standards. Such implementations would simplify various aspects of the proposal and reduce the administrative impact on government. There is a concern, however, that its responsibility with respect to acting on the information provided would remain, since the Bureau would still have to respond to complaints about the information listed in the database.

This interpretation of the objectives of government is not meant in any way to diminish the real support of government for the ultimate objective, which goes to the heart of many Canadian government initiatives. Rather, it suggests that Canada acts in a global context, in which prudent and effective government intervention must reflect a careful assessment of the risks of doing nothing against those of doing the wrong thing or of doing things wrong.

In general, government stakeholders report being extremely concerned and reluctant to participate in a process that would unknowingly:

- Expand roles and responsibilities to areas outside of their jurisdiction;
- Generate efforts without results;
- Create potential trade issues;
- Lead to retaliation by the United States; or
- Somehow hurt the workers they are trying to help with any new policy on working conditions in the apparel industry.

Some stakeholders tell the Conference Board that the ETAG proposal, in its current form, has the potential to do all of these things.

2.2.4 Conclusions on Objectives, Secondary Objectives, and Ultimate Objectives

By asking the Industry Minister to review a specific proposal designed to show Canada's leadership in the area of labour standards for apparel, ETAG is in effect forcing a comprehensive review of a serious issue and of the ways with which to address it in Canada and around the world. It would have been easier if Canada was following the lead of other countries, since we could learn from them and point to their successes when setting up Canadian policy. However, as will be apparent in the next section, others have not followed the proposed disclosure approach outside their domestic markets, and no single approach is being used consistently to address the issue of fair labour standards in the apparel industry.

The number of conflicting and supporting objectives of stakeholders that emerged during the interviews and focus group discussions not only underlines the importance of getting the policy objective right but also significantly broadens the scope of the policy decision. We know from the OPM work that too broad an objective can cause policy failure. Broad objectives are rarely good at addressing secondary objectives,

either. Too narrow an objective is equally ineffective because it focuses efforts on subcomponents that don't contribute much to the ultimate policy objective. Getting the objective right is important, and the government needs, *a priori,* to spend sufficient time reflecting on the material in this section, consulting with the minister on objectives, and coming up with a clear statement of the objective it wants to pursue and therefore entertain comment on.

This objective need not simply be the immediate objective of the ETAG proposal, as this one may be too narrow. On the other hand, it may not be the ultimate objective either, since this objective may be too broad. In the concluding sections, the Conference Board suggests three potential objectives relating to information, verification of information, and consequence that might combine in an effective policy mix.

In general, the Conference Board has found that the seemingly simple change of requiring disclosure of manufacturing locations in the name of promoting the use of fair labour standards has significant implications for ETAG supporters and for consumers, government, domestic industry, international trade, and trade initiatives. In deciding whether or not to accept the ETAG proposal or any of its alternatives, a number of issues and risks needs to be carefully weighed using criteria that can be discussed with stakeholders before a decision is made. Indeed, this is the OPM process that was suggested as a framework for the report. The experience of other countries can also provide some policy direction—should Canada want to take a leading role in using and promoting fair labour standards in the apparel industry around the world. Appendix A provides a listing of resources and organizations that are currently working to address the issue of concern in Canada and around the world.

3. Initiatives that Support Improving Working Conditions in the Apparel Industry

Since the turn of the century, the world has witnessed rapidly improving working conditions in the apparel industry, particularly in developed countries where governments take very seriously the enforcement of labour laws.

However, working conditions have not improved as rapidly in less developed countries. First, the lower levels of development and the widespread poverty that exist in many countries contribute to conditions under which poor labour standards can exist. Such countries may suffer from a structural inability to enforce any standards, never mind labour standards. Policies may stress the importance of gainful employment for the masses and not working conditions. Indeed, stringent labour laws may not even exist. Appendix B provides a description of selected issues that have an impact on the achievement of this policy objective.

Around the world, several organizations and programs have been working to improve working conditions. Those that the Conference Board has characterized as prominent examples of organizations and programs dedicated to the improvement of labour standards in the apparel industry are listed in this section of the report, along with a brief description of their activities.

The report groups the organizations and program into four main categories:

- The ETAG initiative, which is primarily focused on disclosure (a class by itself);
- Those who promote fair labour practices through codes of conduct (voluntary or government-led);
- Those who provide certification of manufacturing facilities and processes; and
- Those based on rule of law or legal changes.

Further information on these initiatives is found in Appendices C, D, E and F.

3.1 Disclosure and the ETAG proposal (Canada)

This is the option that led to this report. As such, it is a major new development in Canada, and the Conference Board has been asked to provide its own interpretation of the various aspects of the ETAG proposal.

The ETAG stakeholders (see Appendix B) are asking for mandatory disclosure of manufacturing sites through the CA Number registration system. As noted, the ETAG proposal seeks to amend the Textile Labelling and Advertising Regulations of the *Textile Labelling Act* basically to require mandatory disclosure of manufacturing sites on labels of apparel sold in Canada. The details of the disclosure are unclear and vary depending on which ETAG stakeholder you talk to. At a minimum, ETAG stakeholders are looking for disclosure of the location of the final assembly site of the garment. Some ETAG supporters are looking for more detailed information, including the location of cutting, sewing, finishing, assembly, pressing, laundering, and shipping (assuming this is being done by subcontractors).

Since requiring a large number of identification numbers to be added to clothing label might be problematic because of space restrictions, several options are being considered. One option would require the additional information to be posted on the CA Number web site, which would provide the required disclosure. In cases where the legal entity responsible for the garment has a large number of such garments to register, perhaps a product type number could be used on the label to direct consumers to the

page or pages outlining the required disclosures for that garment or type of garment. Alternatively, a link could be provided from the CA Number to the company web site, where information by category of product would be listed.

The proposal does not specify how consumers would be informed about labour practices, only that the manufacturing location information would be used for further information-gathering activities. The intent of the ETAG proposal, as described during interviews and focus groups, is to have third parties, presumably NGOs and organized labour institutions in the respective countries, do their own investigations, based on the disclosure, and report their findings on working conditions to the public. The details and timing of this process is also not clear, but one could envisage news releases to the public, Internet links from the CA Number web site, or a "disclosure web site," where information about labour practices would be found. Obviously, one would need to figure out how to best get information from this process to consumers in time to inform their purchase decisions. The proposal assumes that consumers who are concerned about labour standards used in the manufacture of apparel would make the effort to refer to the information when deciding what to buy.

In general, the Conference Board finds that the mechanics of disclosure described by ETAG are ill-defined or impractical in the following respects:

- Current labels lack the space needed to carry information on manufacturing location(s) and labour standards.
- The ETAG proposal would rely on other mechanisms, such as the CA number web site or other specialized web sites, to disseminate information about the fairness of labour standards. This would be awkward for consumers, at best, if only because of the large number locations and the frequency of change.
- ETAG suggests no mechanisms to ensure that the information provided on labels would reflect a balanced view of labour standards. The Conference Board believes that other alternatives that provide balanced and/or independently verified information to consumers directly would be better.
- The proposal singles out the Canadian apparel industry, subjecting it to increased scrutiny and uncertainty at a time when the global apparel industry is in turmoil and the roles of Canadians within it are uncertain.
- To disclose manufacturing addresses is to disclose the wrong information, since it fails to inform consumers about what may be of concern to them, namely the labour standards used in the making of a garment. Indeed, the country of manufacture information found on every garment label provides as much useful information to consumers as would an address of a manufacturing plant.

Based on its interpretation of the proposal, the Conference Board believes the government needs to think about the ETAG strategy of disclosure in light of what other countries are doing to address the issue of fair labour standards and in light of several realities facing the Canadian apparel industry in particular. To help in this area, the Conference Board concludes this section with suggested improvements to the proposal.

The ETAG proposal may seek to provide too much information: industry stakeholders genuinely believe that detailed disclosure of their manufacturing locations increases the risk of supply chain disruption, poaching, and industrial espionage because, by providing too much information, it greatly simplifies and facilitates such activities. Perceived secondary benefits resulting from the disclosure of location (such as being able to find out about competitors' supply chains) are discounted by the industry because of the fear of:

- Being misrepresented;
- Being seen as exaggerating efforts or the success of those efforts;
- Becoming a target of specific and special interest groups; and/or
- Being discredited as a result of the disclosure of a single negative event.

This suggests that the government needs to think in terms of the quantity of information necessary to inform consumers effectively on this issue.

The reliability of the information provided by the ETAG proposal is also in question. The stakeholders that support the proposal believe that the process is sufficiently transparent to force compliance by the industry since any undesirable behaviour would be more easily investigated by those concerned about labour standards. Industry stakeholders genuinely believe that simply disclosing the manufacturing location does little to directly inform consumers about working conditions and that does it not help improve labour standards. They believe what is required instead is a concerted effort aimed at selecting suppliers and enforcing manufacturing policies and procedures that do. In either case, the process by which stakeholders would verify the accuracy of the information provided on labour standards is not specified. The stakeholders that support the proposal are confident that the information provided would be accurate and would reflect the perspective of its stakeholders. The industry is concerned that misinformation or conflicting information would confuse, rather than inform, consumers. This suggests that the government would need to find ways to ensure that the information being released to consumers is reliable.

The manageability of the information required under the ETAG proposal is a concern for the industry: The disclosure process does appear to be manageable for apparel manufacturers and retailers that carry a limited number of products and styles. However, data obtained from the Retail Council of Canada suggests that, as a group, the industry manages more than 660,000 different models, styles, and sizes of apparel, made by over 16,000 suppliers in 81 countries. This is a lot of geographically dispersed information points, particularly when one considers that individual suppliers might represent several manufacturing plants. It is unclear to the Conference Board how the proposed disclosure would work effectively for large industry stakeholders that manage tens of thousands of products made in hundreds of factories in dozens of countries around the world, particularly when a number of them would change over time. Leading retailers, especially, feel the brunt of the increased scrutiny and with it the increased danger that local management shortcomings in far away places will be ascribed as company policy—with disastrous results in the short run. Even companies whose culture has long been based on making such improvements have been criticized by some for not going fast enough or not going further with their efforts. These experiences have led industry stakeholders to invest in codes, procedures, and auditing to ensure compliance. Yet they remain reluctant to publicly disclose the nature of these efforts for fear of someone else uncovering a single case of non-compliance. In other words, the industry largely believes it is doing its best with a difficult situation and refuses to risk putting too much information about specific manufacturing locations in the public domain.

The limitations of the information provided needs to be acknowledged: Disclosure of location could be accomplished by requiring manufacturers to add a label that specifies the address of the manufacturing site. But what is the additional usefulness of this information for consumers in the case of locations in Lesotho or China? The ETAG proposal assumes the new and more useful information would eventually be forthcoming for consumers, namely, the labour standards used at the manufacturing location. However, it is likely to take some time for stakeholders to decisively and accurately portray the labour standards used at thousands of manufacturing sites around the world. Moreover, Canadian industry stakeholders believe that in the current operational context efforts by Canadians relative to the issue are wasted if the substandard manufacturing locations that are identified can merely move on to another buyer whose standards are not as high. A concerted global effort by all manufacturers and retailers worldwide is what is required. In the meantime:

- Would consumers make an informed decision based on claims or verified information on labour standards for, say, 10 or 20 per cent of the available manufacturing locations?
- Would consumers worried about working conditions used to manufacture apparel be satisfied by knowing that coats and mitts are made under satisfactory labour standards?

- Similarly, would knowing that one brand of T-shirt was sourced from a factory using unsatisfactory labour standards be sufficient consumer information? Would it drive purchase decisions for all purchases from that retailer or would it only impact the particular brand of T-shirt?
- Finally, at what point are the labour practices of a particular manufacturing location in doubt? For example, would a one-time report be sufficient to inform consumers or are consumers more interested about multiple occurrences that establish a track record of substandard behaviour?

This suggests that the government would need to think about how much information is required to enable consumers to make informed decisions, taking into account the limitations of that information.

The Timeliness of the information for consumers is another issue: It is quite common for apparel for one season to be ordered and manufactured during the previous season. In such cases, the information about the working conditions used in manufacturing would perhaps arrive several months after the actual manufacturing. Is that an effective way to inform consumers or is the information about labour standards used in the manufacture of the garment required at the time of purchase?

Unrealistic expectations are an issue: The ETAG proposal is unique to Canada. As such, it exposes our apparel industry to an unrealistic expectation of stakeholders relative to their ability to redress unacceptable labour practices on foreign soil. For example, once full disclosure is implemented, taking action against unfair labour practices by refusing to source from facilities using manufacturing practices that are seen to be unacceptable (even when the facility in question refuses to comply with requirements) may be characterized by some stakeholders as "running away" from the problem. As Birnbaum says in his book, "even for companies who want to make a serious effort, serious limitations remain".[15] Disclosure may also make it more difficult to start sourcing from locations whose labour standards may be in doubt, as doing so will expose such stakeholders to the expectation that Canadians can change the practices used in other countries. This suggests that the government would need to think about acceptable responses to labour practice abuses, and if industry is asked to avoid such sources of apparel, about the level of support required to implement trade initiatives that seek to improve conditions in the long run.

The complexity of the issue needs to be acknowledged: ETAG stakeholders describe the changes required by the ETAG proposal as simple in the sense that with relatively few legislative changes the requirements for disclosure of location would begin. However, the implications of the changes are very complex and largely undefined.

The application of the proposal to the apparel industry is of particular concern: This proposal might not be as contentious if it was meant to apply to all domestic industries or to industries that fully control or own the supplying manufacturing facilities. Indeed, in the chemical industry it is the process used to manufacture the chemicals that presents the competitive advantage, not necessarily the location of manufacture. Disclosing locations in such an industry would not be so problematic. However, because the proposal singles out an aspect of the apparel industry that is considered to be a key competitive advantage, the level of opposition to disclosure is not surprising.

If we assume that consumers are keenly interested in information about the labour standards used in the production of apparel sold in Canada, the ETAG proposal provides an interesting new approach internationally, one that has never been considered outside of domestic apparel markets. However, the approach is also somewhat incomplete because it leaves to others, to chance, and to conjecture significant features that should be part of any effective information tool for consumers in this area. As a result, the Conference Board suggests that the government examine the ETAG proposal in light of the issues raised by the report.

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[15] Birnbaum, page 158.

3.1.1 Addressing Concerns with the Proposed Disclosure Initiative

There are many ways in which the government could work to address concerns that have emerged and that are captured in summary form by this report. Indeed, the government could substantially modify the disclosure proposal to more effectively contribute to the issue of fair labour standards in the apparel industry. In particular, the government could incorporate the types of voluntary and certification initiatives that have emerged in Europe and the United States. The following represent a selection of ideas that might help address some of the emerging concerns:

- The government could conduct more definitive research about the type of information that consumers require to make ethical purchasing decisions. This would then become information that retailers would want to review before making their own purchasing decisions. By not focusing narrowly on disclosure but rather on consumer information, the government would address issues that are fundamental in making any proposal an effective policy tool to inform consumers. Specifically, the research needs to find ways to better link consumer information about labour standards with disclosure information.
- The government could help determine whether supply chain information is proprietary for the apparel industry and, if so, help devise mechanisms to protect such information from unauthorized use. For example, the information might only be released when it is required to inform consumers about fair or unfair labour practices and only after they have been independently verified.
- The government could help sponsor a more broadly acceptable process to verify the information provided on labour practices used in the production of apparel sold in Canada. Unverified, or unbalanced information based on the perspectives of one or two stakeholder groups may lead only to confusion for consumers, as claims and counterclaims are aired publicly.
- The government could determine and help differentiate the needs and practices of large integrated complex retailers and manufacturers from those of the smaller, less complex participants that use intermediaries, such as importers and buying agents. In the case of unmanageably large supply chains, a risk management approach could be a more effective way to request and provide information about manufacturing labour standards.
- The government could help determine the level at which labour standards information is required for consumers to be informed. Is it labour standards used and promoted by the retailer and its suppliers, or is it the labour standards actually employed in the production of the apparel they are purchasing? This would be useful in determining whether consumers want labour standards information at the garment, the manufacturing location , the manufacturing country, or the retailer level.
- The government should research and help determine the conditions under which its stakeholders think it acceptable, if not advisable and desirable, for Canadian apparel importers not to source apparel from particular facilities. Similarly, it could help characterize the conditions under which it is acceptable to leave suppliers that are not willing or able to raise labour standards to an acceptable level within a reasonable period of time. By focusing on expectations, the government would also address issues that are fundamental in turning any proposals into effective policy tools to improve labour standards around the world.
- The government could incorporate voluntary features of various alternatives used around the world, which increase the value of the information provided to consumers without making public vast amounts of proprietary information. For example, confidential disclosure of location information to a third party, followed by public disclosure of labour practices, either country or company specific, might provide more valuable information to consumers.

The OPM process treats the ETAG proposal to amend the textile labelling and advertising regulations as a means to an end, not as an end in itself. Because the ETAG proposal is but one proposal along a continuum of instrument choices that could be used by government to achieve its objective, there may not be a reason to try to modify the ETAG proposal to make it more acceptable. There are alternatives. For starters, the government could more effectively coordinate the efforts of its many departments in fulfilling

their responsibilities to promote fair labour standards, whether global or national. It could help support and build upon initiatives already in place around the world, for example by piggy-backing on one or more of the certification initiatives or incorporating one or more of the emerging codes of conduct into a Canadian initiative. The remainder of this chapter describes some of these initiatives.

3.2 Codes of Conduct and Similar Initiatives

A number of initiatives based on codes of conduct have emerged in response to the pressing need for fair labour standards in the apparel industry worldwide. These codes enjoy a remarkable degree of alignment around core labour standards, whether initiated independently in Canada or around the world by individual apparel retailers and manufacturers or whether special purpose entities were created to administer the codes.

On one hand, stakeholders unanimously applaud these codes as steps in the right direction. Some stakeholders see them as very effective, since they allow organizations that subscribe to them to highlight their efforts and the minimum standards to which they manage supply chain labour standards.[16] At the same time, many stakeholders express concern about the codes as not rigorous enough, sometimes poorly financed, or poorly enforced. There may also be variations in the way organizations manage their adherence to the codes themselves, and between one organization and another. The following codes were selected to represent a cross section of Canadian and international codes-based initiatives. More information on the initiatives mentioned in this section can be found in Appendix C.

3.2.1 Company-specific Ethical Standards by Retailers, Manufacturers, or Importers

Many retailers and suppliers in the Canadian apparel industry have their own codes of conduct, which they administer and enforce within their supply chains. For example, one major Canadian clothing manufacturer and importer has a 20-page code of ethics. It has hired inspectors who live and work in the regions where their subcontractors are located. These inspectors regularly go to work sites, unannounced, and ensure that all the required standards are met within manufacturing plants. Checklists are prepared and items that are not up to standard have to be addressed by a specific date when a new audit is conducted.

Some clients, typically resellers or retailers, aggressively drive these standards. One leading Canadian women's apparel manufacturer mentioned that since they have been producing apparel that guarantees high standards of production, buyers are willing to pay higher prices to purchase their products. This manufacturer is committed to continuing to produce these more expensive garments and is convinced that this trend will follow with other manufacturers.

Clients and manufacturers such as these are feeling the pressure from the public, consumers, and action groups who require assurances about ethical standards. In the case of the large Canadian clothing manufacturers mentioned above, the supplier will take larger clients, typically large retailers, on tours to show them where items are being manufactured. These tours are meant not only to demonstrate the quality of manufacturing but also the favourable working conditions under which the items are made and the lengths the manufacturer/importer goes to ensure the proper conditions for making the apparel.

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[16] For an example of processes followed by a Canadian retailer, please refer to the Social Responsibility program of The Hudson's Bay Company, as at Feb. 2, 2003 at http://www.hbc.com/hbc/socialresponsibility/intro.asp.

The resources for this type of attention to clients is not always possible for smaller suppliers, who have to rely on agents and other middlemen in the supply chains for their products. However, adherence by these agents and middlemen to codes of conduct, plus independent verification, could inform even the smallest firms of the working conditions in countries where rights and conditions workers enjoy in Canada may not exist or be readily enforced.

3.2.2 Client-specific Codes such as Students Against Sweatshops in Canadian Universities

Students Against Sweatshops groups across Canada have been raising awareness around the issue of labour standards used in producing apparel bearing their universities' logos and colours.[17] Groups in many provinces have started campaigns to pressure their schools and universities to adopt codes of conduct governing the production of clothing. Students are actively campaigning for sweat-free campuses in 18 different universities across Canada. Codes adopted by Western, Guelph, and Dalhousie were deemed not to be stringent enough by Student Against Sweatshops. On these campuses, students are mounting campaigns to strengthen the codes and expand the requirements.

3.2.3 Client-specific Codes in the United States, such as The Workers' Rights Consortium

The Worker Rights Consortium (WRC) is a non-profit organization created by college and university students and administrators, and by independent labour rights experts, to assist in the enforcement of manufacturing codes of conduct adopted by colleges and universities. These codes are designed to ensure that factories producing goods bearing college and university logos respect the basic rights of workers. More information about this initiative can be found at www.workersrights.org.

[17] This information is based on material obtained from the Students Against Sweatshops campaign web site at http://www.campuslife.utoronto.ca/groups/opirg/groups/sweatshops/sas-c.html.

3.2.4 Retail Council of Canada's Responsible Trading Guidelines

The Retail Council of Canada (RCC) has created Canada's Responsible Trading Guidelines (RTG) for association members.[18] These guidelines are meant to apply to finished consumer goods purchased for resale to consumers. According to the RCC, "The goal . . . is to see Canadian retailers adopt these guidelines on a voluntary basis, and implement them according to their business needs and practices."

Although the guidelines are voluntary, they appear to be modelled on principles that are similar to those of other fair labour initiatives. The actual wording of the guidelines, reproduced from the Retail Council Web Site, appears in Box 3.

As of February 2003, the RCC's suggested implementation plan for the guidelines has the following steps:

- The RTG shall form part of any agreement the retailer enters into with its suppliers.
- The retailer shall evaluate its suppliers by assessing their observance of the RTG.
- The retailer shall assign responsibility for the implementation of the RTG to a responsible member of management.
- Employees to whom the RTG applies shall be informed of it through the posting of the code in a prominent place in the local languages spoken by the employees and managers.
- Employees to whom the RTG applies shall be provided with a confidential means of reporting violations of the RTG to the retailer and shall not be disciplined, dismissed or discriminated against for providing information about the observance of the guidelines.

As mentioned above, the guidelines were developed by the RCC partly as a contribution to negotiations with ETAG and partly as an effort to voluntarily achieve the policy objective that is the subject of the report.

Box 3: The Responsible Trading Guidelines, in Brief

Laws and Workplace Regulations

The laws and regulations of the countries where goods are made shall be complied with.

Forced Labour

Forced labour shall not be used, whether in the form of prison labour, indentured labour, bonded labour, or otherwise.

Child Labour

No person shall be employed under the age of 14, under the age interfering with compulsory schooling, or under the minimum age established by law, whichever is greater.

Harassment or Abuse

Corporal punishment and other forms of coercion, abuse or harassment, whether psychological, sexual or physical, shall be prohibited.

Discrimination

Discrimination in hiring or any other terms or conditions of work, other than *bona fide* occupational requirements allowed by law, based on race, colour, national origin, religion, disability, gender, sexual orientation, marital status, or political opinion, shall be prohibited.

Freedom of Association

Employees shall be permitted to exercise lawful rights of free association.

Hours of Work

The laws on working hours of the countries where goods are made shall be complied with and employees shall be entitled to at least one day off in every seven-day period, except as required to meet urgent business needs.

Health and Safety

Conditions in all work and residential facilities shall be safe, clean, and consistent with all applicable laws and regulations regarding safety and health.

Wages and Benefits

Employees shall be paid the higher of the minimum wage required by the laws of the countries where goods are made or the prevailing local industry wage and shall be entitled to all legally mandated benefits. Deductions from wages, not provided for by the laws of the countries where goods are made, shall not be permitted without the express permission of the employee.

Box 4: Selected Fundamental ILO Conventions

C29, Forced Labour Convention
C87, Freedom of Association Convention
C98, Rights to organize and Collective Bargaining Convention
C100, Equal Remuneration Convention
C105, Forced Labour Convention, 1957
C111, Discrimination Convention
C138, Minimum Age Convention, 1973

[18] See the web site, as at Feb. 2, 2004 at http://www.retailcouncil.org/govrelations/federal/archive/trd_guidelines.asp

ETAG stakeholder suggested during interviews that these guidelines were not acceptable because of their voluntary nature (i.e., retailer can choose to ignore them), because they were not complete and because of the lack of third party verification processes to ensure that the guidelines are actually followed. As mentioned above, the guidelines only ask retailers to use reasonable efforts to require their suppliers to provide decent, legal, and humane working conditions at the manufacturing stage. Those suppliers are also asked to use reasonable efforts to require their contractors to include these guidelines in their contracts.

3.2.5 Clean Clothes Campaign's Code of Labour Practices

This European-based Code of Labour Practices sets forth minimum standards for wages, working time, and working conditions and provides for observance of all of the core standards of the ILO, including Conventions 29, 87, 98, 100, 105, 111, and 138. Box 4 outlines the basic requirements of these conventions. They are minimum standards meant to apply throughout the industry and in all countries. The code is not a trade protectionist measure. It is not meant to be used as a means to close the markets of some countries at the expense of workers in other countries.

3.2.6 Ethical Trading Initiative (United Kingdom)

The Ethical Trading Initiative (ETI) brings together companies, unions, and NGOs to identify and promote good practices in the implementation of codes of conduct, including monitoring and independent verification. Companies such as Anchor Seafoods, Body Shop, Chiquita, Levis, NEXT, Marks and Spencer, Safeway stores, Brooke Bond Tea, Tetley Tea, and Twinings are members. The ETI has developed a multi-sectoral Base Code based on ILO standards. It includes provisions for a living wage, freedom of association, and security of employment. ETI members are currently participating in four pilot projects, testing various models of code verification. Details of the initiative can be found at www.ethicaltrade.org.

3.2.7 The Fair Labour Association (United States)

The Fair Labour Association (FLA) is a U.S. non-profit organization established in 1998 to protect the rights of workers in the United States and around the world. The FLA is the successor to the Apparel Industry Partnership (AIP), which was initiated by the White House in 1996 to address labour rights standards in the apparel industry. The FLA Charter Agreement outlines an industry-wide code of conduct and monitoring system. The FLA accredits independent monitors, certifies that companies are in compliance with the code of conduct, and serves as a source of information for the public. The companies participating in the FLA are Adidas-Salomon, GEAR for Sports, Jostens, Inc., Joy Athletic, Levi Strauss & Co., Liz Claiborne, Nike, Patagonia, Reebok, Eddie Bauer, Phillips-Van Heusen, and Polo Ralph Lauren. More information about the FLA can be found on the organization's web site at www.fairlabour.org.

3.2.8 Fair Wear Foundation (Netherlands)

The Clean Clothes Campaign (CCC) was successful in bringing together Dutch NGOs, labour centrals, and associations of apparel retailers and manufacturers in a five-year process of negotiations for an industry-wide code of conduct that has provisions for independent monitoring and certification. This became the Fair Wear Foundation.

Unions, NGOs, retailers, and manufacturers are represented on a Fair Wear Foundation committee that will hire external monitors, evaluate their reports, and certify apparel companies and their supplier factories. This is an example of the type of verification arrangement that could be used in Canada as an alternative to the ETAG proposal. In the Netherlands, agreement has been reached on a voluntary code that includes strong provisions on freedom of association, hours of work, and a living wage. The Fair Wear Foundation will ensure that the codes are being applied fairly and will certify compliance. More information about the Fair Weather Foundation can be found on the organization's web site at www.fairwear.org.

3.2.9 FairWear Homeworkers Code of Practice (Australia)

The Textile, Clothing and Footwear Union of Australia (TCFUA) and its supporting coalition of religious and NGO partners in the FairWear campaign have succeeded in pressuring close to 40 major retailers and over 50 manufacturers and fashion houses to sign the Homeworkers' Code of Practice. This code is unique in addressing the specific problems of home workers and it offers another approach whereby a stakeholder-supported code has obtained the support of industry (as opposed to industry codes being supported by other stakeholders). Appendix D reproduces a detailed description of this code.

3.2.10 Conclusions about Codes of Conduct

Based on the number of initiatives uncovered by the research, codes of conduct are a fairly popular, although fairly recent, type of initiative whose aim is to ensure fair labour standards. They are seen by many as an effective way to inform consumers of the types of efforts being made to ensure fair labour standards in various industries, most notably apparel. Because they outline in relative detail the agreed-upon standards that signatories will follow, they allow for more transparent verification and reporting.

However, because they are quite new, there are concerns that over time stakeholders will begin to criticize them as not stringent enough. Other stakeholders complain that the codes are not being managed closely enough by the industry and that verification may not always be effective. While it is true that we may never be able to satisfy all stakeholders with any initiative, a multitude of criticisms of this type tends to reduce the perceived value of a code.

Already in the United States, some codes are being abandoned in favour of others that provide added features praised by stakeholders. This has led to a proliferation of codes and a resulting dilution of the number of apparel industry participants that subscribe to any one code. The proliferation of alternative codes may eventually lead to confusion, as consumers compare and contrast the various codes under which the apparel they want is produced.

3.3 Initiatives that Provide Certification of Manufacturing Plants

A number of initiatives aim to support fair labour practices by offering to certify factories that produce apparel. These initiatives are similar to codes of conduct in that they help set minimum labour standards under which goods are produced. Unlike codes, however, which tend to apply to large clients, such as retailers and universities, certification is meant to apply to the facilities that produce or manufacture apparel. Thus, it is the manufacturing plants used by apparel customers that are certified to be using fair labour standards, with the assumption that retailers would want to use such manufacturing sites in the production of apparel. As such, these initiatives represent another alternative to the ETAG proposal.

There are fewer examples of certification, perhaps because of its cost, which is usually borne by the manufacturing facility, and perhaps because certification mainly appeals to facilities in the developed world that already offer fair labour standards to workers. Indeed, a nonconforming plant in the developing world might have to change significantly before it would consider applying for certification. If we assume that unfair labour standards are driven by a lack of resources locally, it is unlikely that certification alone will substantially impact the issue of fair labour standards in apparel. Nevertheless, as conditions improve throughout the world, certification can become a sign that retailers can spot to identify, relatively easily, the plants that employ fair labour standards. It can also help newly certified facilities come to the attention of socially responsible retailers. As the number of certified facilities increases, it will become increasingly possible for retailers to use only certified manufacturing plants.

3.3.1 FairTrade Labelling Organization

The FairTrade Labelling Organization (FLO) is a non-profit, membership-based association of National Initiatives (17 members worldwide) who promote fair trade labelling in their national markets. They do this by:

- Lobbying governments for support;
- Negotiating with importers and retailers; and
- Running education programs with the aim of supporting marginalized producers on the road to sustainable development.

The label identifies FairTrade products so that consumers will buy them, giving FairTrade producers access to international markets on fair terms. FairTrade products do not currently include apparel, but the concepts used in FairTrade could be adapted to apply to it. Information about the FairTrade initiative can be found at www.fairtrade.net.

FLO is the only certification system in the world where producers do not pay for their certification. The consumer pays for the FairTrade system. Traders pass on to consumers the higher FairTrade price and the premium that is paid to producers for FairTrade products. The National Initiative in the country where the products are sold charge the licensee a fee for using the FairTrade label. This pays for all of FLO's certification and monitoring costs and for the National Initiatives marketing expenses. Including the cost of the system in the retail price, makes FairTrade labelling sustainable.

3.3.2 Social Accountability International (United States)

Social Accountability 8000 (SA8000), is a voluntary, multi-sectoral standard for auditing and certifying corporate responsibility. It was developed by the U.S.-based Social Accountability International (SAI), the former Council on Economic Priorities Accreditation Agency, in 1997. This standard is primarily intended for use by manufacturers and suppliers.

SA8000 standards are based on ILO and United Nations conventions and the Universal Declaration on Human Rights. The standards have a section on social accountability with subsections on child labour, forced labour, health and safety, freedom of association, discrimination, working hours, disciplinary practices, and remuneration. It also has sections on "control of suppliers, subcontractors, and subsuppliers," addressing concerns and taking corrective action, as well as maintaining records. More information can be found on the SAI web site at www.sa-intl.org.

The SA8000 system is modelled on the ISO 9000 system used by companies to ensure quality control. SAI trains and accredits social auditing firms and individual auditors, who are hired by companies to certify their and/or their suppliers' compliance with SA8000 standards. Nine organizations can currently certify compliance to SA8000. As of March 2002 there were 117 SA8000 certified facilities, spread across 25 industries in 24 countries. This is a relatively small number of facilities, given that the initiative has been in place for over 5 years. However, this reflects only some of the limitations of certification alternatives, not the effectiveness of the process at ensuring and promoting the existence of fair labour practices.

3.3.3 Worldwide Responsible Apparel Production (United States)

The Worldwide Responsible Apparel Production (WRAP) factory certification program was launched in January 2000 by the American Apparel Manufacturers Association (AAMA). It contains requirements that ensure fair labour standards More information on this certification initiative can be found at www.wrapapparel.org.

This factory-based certification program is particularly rigorous, reflecting the quality of the certification. It has the following stages:

- Self-evaluation;
- Independent review by certified evaluators; and
- Final review by the WRAP Certification Board.

Its appeal for U.S. apparel manufacturers is its less onerous standards and the fact that responsibility for seeking, paying for certification, and achieving compliance lies entirely with local factory owners, not with North American companies that contract out the manufacture of their products. For more information, refer to www.wrapapparel.org.

3.4 Laws and Other Legislative Requirements

Most of the laws used to ensure fair labour standards in the apparel industry are typically enacted by the governments in which the apparel production facilities exist and apply to all industries, not merely the apparel industry. As a result, the Conference Board only found one case where laws were enacted in support of fair labour standards for apparel.

This section provides examples of how laws can be used to support the promotion of fair labour standards:

- One is an example of a domestic law that requires disclosure of supply chain information. The law apparently aims to identify the domestic apparel industry's use of home workers, i.e., apparel workers that are working outside factories, sometimes part of the underground economy.
- A second example is an information disclosure law whose aim appears to be to better inform shareholders and other stakeholders of the labour and environmental practices used by its national firms around the world.

While the objectives of both examples are considerably narrower than the ultimate objective covered by this report, they do provide new ideas to be considered as Canada looks for ways to show leadership through legislative change.

3.4.1 Australia's Retailers Ethical Clothing Code of Practice

The Retailers Ethical Clothing Code of Practice is an example of a law enacted by an Australian state government (Victoria) to support a code of conduct (described earlier in Section 3.1.9). This brand new law is designed to help provide a new tool for tracking the largely invisible workforce in Australia, from the top of the contracting chain down.

One of the key objectives of this law was to help identify this important component of the Australian underground economy. It basically requires Australian retailers to take action when exploitation of home workers is uncovered in this process of complying with the Fairwear Homeworkers Code of Practice. The code provides requirement for retailers to share with the Textile, Clothing and Footwear Union of Australia information from their commercial records related to clothing industry suppliers and contracts. The code is meant to apply to Australian workers only and does not cover those in other countries.

The fact that there was a need for such a law in the State of Victoria to support progress toward the use of fair labour standards in the apparel industry may suggest similar legal changes are required in Canada to support the use and promotion of fair labour standards here. In Australia, this was a domestic problem. This is a much narrower application than what is being considered in Canada by the ETAG proposal, where the primary target appears to be apparel manufactured anywhere in the world under unacceptable conditions. Appendix E reproduces a document prepared by FairWear Australia, the code of conduct organization, and by TCFUA VICTORIA, the union named in the legislative requirements.

3.4.2 France's New NRE Law

France's new law, "Nouvelles Regulation Economiques" (NRE) is another laws-based initiative that will require all nationally listed corporations in France to report to shareholders and stakeholders on a range of sustainability issues—including the environment, employees, the local community, and international labour issues.

The NRE is not a comprehensive reporting system. It imposes a legal obligation for corporations to publicly disclose against a limited set of qualitative and quantitative indicators relating to the social and environmental impacts of their activities. The bulk of the NRE's reporting requirements centre on a number of widely accepted stakeholder themes. The regulations make it mandatory for corporations to report on employees, community, the environment, and International Labour Standards. This type of initiative could be used as a model to enact legal requirements for disclosure of practices, including international labour practices, used in the production of apparel. This disclosure would fall short of the requirements of the ETAG proposal but would increase the amount of information currently available to consumers and other stakeholders (see appendix F).

3.5 Recent Developments in Canada

As described in this section, social responsibility issues and the desire to eliminate sweatshops have joined the mainstream in thinking about the right way to do business in the Canadian apparel industry. Certain new initiatives are emerging, such as the initiative taken by university students to ensure the ethical standards of suppliers who supply apparel and shoes on the campus. Other organizations have created their own standards, some formalized in internal or shareholder documents, others more like guidelines. Many governments, including municipal governments, are ensuring that clauses are inserted into their contract documents or tender documents requiring suppliers to maintain ethical standards. A fairly impressive range of actions is being taken to raise the level of ethical business behaviour in apparel across Canada.

In addition, the federal government has initiated its LDC Market Access Initiative, partly to strengthen economic growth through trade.[19] This initiative became effective January 1, 2003. It embraces 48 LDCs. 34 of them in Africa. This is in line with efforts with other developed nations to help alleviate poverty by encouraging increased trade ties with LDCs. Through the WTO's Agreement on Textiles and Clothing, quotas were to have been removed from apparel imports from LDCs in 2005. With these initiatives, Canada has accelerated the elimination of quotas from LDCs. Issues such as rules of origin and trans-shipments are being studied and discussed, as well as the possible effect these initiatives may have on domestic textile apparel manufacturers.

3.6 Conclusions on Labour Standard Developments Around the World

All the initiatives mentioned in this chapter are similar in trying to improve labour standards. As such, they provide important new insights around whether to consider the implementation of the ETAG proposal or one of its alternatives. All of the initiatives involve stakeholders as decision-makers and as key resources in achieving desired objectives. All of the initiatives include some form of reporting, some form of disclosure and, except for the French and Australian laws, most are voluntary.

However, none of the initiatives are viewed as directly addressing the issue of labour standards around the world. Perhaps as a result of this, many of these initiatives are viewed as only slowly contributing to the desired changes to labour standards in the apparel industry. This suggests to the Conference Board that the ultimate objective of stakeholders in this case may also be too broad for Canada to address directly. This would further suggest that Canada instead enact a series of measures, similar to the initiatives listed above, that more indirectly and gradually contribute to global solutions to the issue of fair labour standards in apparel.

All of the initiatives provide considerable assistance and guidance on ethical practices. In the process, they provide a very effective definition of the way in which apparel manufacturers need to behave to meet emerging standards. They also provide a roadmap for the types of components to include in any standard set up in Canada. They suggest that a standards needs to include requirements for :

- A prohibition on forced labour;
- A prohibition on child labour;
- A prohibition on harassment and abuse;
- Provisions for locally acceptable minimum compensation and benefits;
- Prohibition of discrimination;
- Health and safety requirements; and
- Freedom of association, unless this is prohibited by the local government.

In most cases, the onus remains on apparel industry participants to choose the manner in which to conduct their business in support of the standards. In today's highly competitive world, all businesses pursue practices that provide a competitive edge. The initiatives mentioned help businesses publicly focus of the human aspects of doing business in the apparel industry, in support of objectives that Canadian consumers would likely support. But they don't offer any guarantees—and still depend on the goodwill and social responsibility of industry participants.

Even with all the available resources for the world apparel manufacturers to do the right thing today, there are still entrepreneurs who, for cultural or financial reasons, will not abide by laws that enforce fair labour

[19] For more information, refer to the LCD Market Access Initiative's web site, as at Feb. 2, 2003 at www.dfait-maeci.gc.ca/tna-nac/ldc_back2-en.asp.

standards. Such entrepreneurs are willing to do whatever is necessary to avoid them. In Mexico, for example, there are reports of ships being converted into floating manufacturing sites. Once labourers are on board, the ship steams out to sea, to circumvent most of the applicable Mexican regulations. This type of practice is possible because entrepreneurs are willing to do it, workers are desperate enough to take part in such schemes, and governments are unable or unwilling to stop them. Even when they are able to do so, the entrepreneurs find somewhere else where the conditions are ripe for continuing the behaviours.

Again, this suggests that implementing a lasting solution to the issue of unfair labour practices in the apparel industry is not the sole responsibility of the Canadian apparel industry. Nor is it the responsibility of Canadian consumers or their governments and institutions to single-handedly solve an age-old problem. We can, however, contribute to the solution by continuing to work together, enacting laws domestically and implementing and enforcing codes internationally that will ensure that those employing unfair labour practices are penalized and those employing fair labour practices are rewarded. We can also encourage others to do so and contribute to international initiatives in meaningful and effective ways. In the end, all of the parties concerned need to confront and correct questionable business practices and only then will the benefit be felt by those who need it most.

4. Decision Making Criteria and Options

Now that this report has outlined the various perspectives around the policy objectives (the end) and reviewed the policy initiatives that have been implemented in Canada and around the world (the means), it can now focus on the analysis of the means to achieve the end. This is the Optimal Policy Mix Framework.

This section reviews the criteria used for the analysis, as well as the options generated by stakeholders as part of the OPM process. As mentioned before, almost all stakeholders support the ultimate objective, which is to "find a means of addressing a serious issue of concern: the use and promotion of fair labour standards in respect of apparel sold in Canada." However, stakeholders could not agree on the means of achieving the objective. As a result, this section reports on stakeholder perspectives around the criteria used to assess each option, on the degree of importance being placed by stakeholders on each criterion, and on the perceived effectiveness of each option relative to the criteria. This section also reports on the ETAG proposal and each of its alternative, as captured during focus group sessions.

As mentioned before, none of the options considered emerged as the clear winner in terms of optimal policy choice. This suggests that a series of measures, or new alternative means may have to be considered if Canada is to achieve the ultimate objective. The concluding section of the report provides a context for examining the potential for a more optimal mix of policies based on the findings of the report.

4.1 Methodology

This report uses the OPM Framework, a methodology for considering policy objectives (ends) and policy instruments (means) in the development of policy around the use and promotion of fair labour standards in the production of apparel sold in Canada. It builds on work undertaken by The Conference Board of Canada over the last four years suggesting that good public policy making take a more considered approach to three iterative elements, or steps, preceded by scoping and followed by implementation.

The OPM Framework is intended to:

- Ensure consideration of the different means that can be used to address particular ends;
- Provide a tool to assist decision-makers (primarily public sector policy makers) in policy analysis, formation, planning, and assessment;
- Enhance appreciation for the breadth of policy instruments; and
- Further understanding of key considerations in the policy formation process.

Some key findings arising from previous OPM projects are that:

- The policy mix is becoming increasingly diverse with an increasing array of means to address different ends.
- The availability of voluntary initiatives helps foster choice in the development of optimal policy approaches.
- The selection of preferred policy approaches requires appropriate consideration of the breadth and depth of policy instruments and their compatibility with policy goals.
- Stakeholders are an important consideration across all elements of the OPM Framework and policy selection process.
- Ends should drive means and not *vice versa*.

This particular application of the OPM Framework addresses a range of policy tools—from disclosure regulation, represented by the ETAG proposal, through voluntary and non-regulatory initiatives, to information dissemination instruments as they apply to the promotion of fair labour standards. The objectives, alternatives, and selection criteria were developed by the Conference Board in collaboration with various stakeholders representing ETAG supporters, the Canadian Apparel Federation, the Retail Council of Canada, Industry Canada, HRDC and DFAIT.

The methodology consisted of :

- Initial interviews with stakeholders to gather their perspectives on the issue of concern and to validate the objectives and criteria to be used to evaluate the policy.
- Five focus group sessions with stakeholder groups to evaluate the proposals using criteria developed by the Conference Board and vetted by stakeholders during the interview process. Further refinements of the criteria and objective also occurred at this stage; and
- Writing of a report that interprets the feedback of stakeholders, reports on the importance of the various criteria, and evaluates the effectiveness of various proposals relative to the criteria.

Further information about the OPM can be found in the section entitled About the Optimal Policy Mix, after the conclusion of this report.

4.2 The Decision-making Criteria

The OPM forces stakeholders to explicitly assess the effectiveness of the policy options through the use of criteria. In the case of the use and promotion of fair labour standards, 23 criteria in 4 categories were considered. This section reviews the criteria categories and the importance ratings assigned to each of them by stakeholders. Summary tables of the results are presented in Appendix G.

4.2.1 The Identification Criteria

This set of criteria sought to evaluate the degree to which each policy option identified and followed the issue of fair labour practices in respect to apparel sold in Canada. Identification was seen as relatively important in this case, as is reflected in the stakeholder feedback (see Appendix G Box 1).

The first identification criterion, the ability to correctly identify sweatshops, had the broadest range of views. Those stakeholders rating sweatshop identification as low generally believed that the information about labour standards was less important than the information about the location of manufacturing. Those who ascribe to this perspective, also believe that once a manufacturing location information is known, local NGOs or agencies will use their resources to accurately determine if the location is using sweatshop practices. This information would therefore inform consumers indirectly.

On the other hand, stakeholders who believed this criterion to be highly important see the need for a more direct relationship between the information provided and the ability of consumers to be informed about fair labour practices. These stakeholders believe in the need for information about labour practices in use at the manufacturing locations, not necessarily information about the location.

The range of perspectives about the importance of this criterion appears therefore to be the result of a basic disagreement as to whether the policy options should directly identify sweatshops or identify them indirectly by way of their locations.

The second criterion in this group concerns the quality of the information. It asks whether the information given will be of sufficient quality to inform consumers on the use of fair labour practices at manufacturing locations. In this instance, the range is much smaller, since stakeholders believe the information needs to be accurate and complete in order to be useful. Those who rate this criterion as medium in importance would be satisfied with incomplete information about location only because incomplete information is better than no information. Those who rate the criterion as high would prefer complete and accurate information about labour practices at manufacturing locations, not incomplete information about location only. All believe that the information needs to be accurate and backed up by penalties for willingly providing erroneous information.

The third criterion in this group concerns the geographic dispersion of the information. At issue is whether or not the information provided should focus on particular areas of the world and/or whether the location of the sweatshops has any bearing on the policy decision. Almost all stakeholders agree that this is less important to this policy decision. In effect, stakeholders are saying that consumers want to have information about fair labour practices whether these practices are in Canada or anywhere else in the world. In other words, the policy option should apply wherever fair labour practices are required—and this is anywhere in the world.

The fourth and final criterion concerns the ability to respond. This criterion speaks to the response of the apparel industry when sweatshop conditions are uncovered. This criterion is rated as medium in importance by some stakeholders, largely because they believe that those using some manufacturing locations have no incentive to improve working conditions, even when requested to do so by their Canadian customers. As such, the only way to avoid unfair labour practices would be to avoid use of the particular locations. Examples of this abound. In some countries, the political leadership is seen to be so corrupt as to remove any possibility of responsible behaviour, including fair labour practices (example, Burma). In such countries, stakeholders believe that no trade may be better than trade that supports such a regime. In other countries, the culture or political system supports or condones practices that Canadians see as unfair. In such cases, the local beliefs and conditions limit the effectiveness of the Canadian policy option chosen and reduce the importance of this criterion in the policy choice .

Those that rate this criterion as high believe the Canadian apparel industry must not only do the right thing with respect to fair labour practices, it must also work with the locations that employ unfair practices to improve them. These stakeholders perhaps also believe that the Canadian apparel industry should choose not to work in countries deemed to employ unfair labour practices—at any price. Once the decision has been made to source in a particular country, however, the Canadian apparel industry should also be willing to work, for the long term, toward improving the labour practices there. As a result, they rate the ability to respond criterion as highly important to the policy option decision.

As demonstrated by Appendix G, Box 2, none of the policy options considered by stakeholders were highly effective at maximizing the information criteria. The ETAG proposal sought to provide only part of the information, relying on others to complete the information about the use of fair labour standards. The contract-based proposals did an effective job only for large clients, such as universities and cities, but did little to inform consumers in general. The codes of conduct and certification initiatives were viewed as effective at providing information, but the quality of the information that would be provided was seen as suspect by some stakeholders. What was required under those proposals was a way to verify the information provided, particularly adherence to published standards. The industry stakeholders felt it sufficient to rely on their own auditors and world industry experts, whereas other stakeholders wanted their own representatives to be the ones verifying and characterizing the practices and adherence to standards. Bilateral trade agreements were seen as good tools, albeit blunt ones that are limited in scope (negotiation time) and ability to effect change. Indeed, many stakeholders questioned the effectiveness of trade remedies as a tool to address l[illegible]our standards. Finally, the reporting proposal would be very effective at providing information, but only for a subset o[illegible] the industry. Timelines were also seen as an issue for periodic reporting.

4.2.2 The Technical Criteria

Technical criteria are those that relate to the structure and practices of the industry, in as much as they affect the policy option decision or the policy objectives. This is a particularly important aspect of the apparel industry because of the practices described earlier and the propensity of many countries to compete viciously on price to attract investments in what they see as the number one target for industrialization. As a result, all of the criteria are relatively important to both the objective and the policy choice. (see Appendix G, Box 3).

The first criterion relates to the level of change, innovation, and turnover. Change is the order of the day in the apparel industry. All stakeholders wish the supply chains were more stable than they are, and a number of industry stakeholders report they are working to reduce the number of suppliers and consolidate supply chains. However, this is very difficult for apparel. It is subject to seasonal variations and has perhaps as many permutations of the supply chains as there are types of apparel. This is particularly true in Canada where winter apparel is substantially different and may have to be sourced differently from summer apparel. To further aggravate the situation, changes to the existing system of quotas, or to rules of origin, may force a manufacturer to change supplier from year to year. For example, a reduction in quota may mean a manufacturer can no longer profitably source from certain countries, for example if competitors fill the country quota before you have had a chance to place your order. The supply chains therefore may have to be changed in response to quota changes or even to rules of origin changes, which, in turn, affect how the quota is applied. Birnbaum provides an incredible illustration of how such changes might affect the supply chain for a single product.[20] Taking this example and multiplying it by thousands of items gives an idea of the complexity of supply chain management in apparel and provides a compelling reason for many stakeholders to characterize this criterion as very important to the policy choice. Those stakeholders who describe the importance as medium usually refer to specific examples where the supply chain is simpler, either because of product specialization or because of direct sourcing. In such cases, the supply chains are more stable and less subject to turnover.

Seasonal variations also introduce another dimension to the need to source substantially different apparel well in advance of the selling season. They also increase the danger of inventory obsolescence. For example, spring clothes reach stores in late winter. Although there are perhaps as many permutations as there are categories of apparel, this means that some apparel may have to be sourced weeks or even months ahead of the selling season (in mid-winter, for example). Discounting is also a common practice, and Birnbaum describes a situation where clothes from certain parts of the world need to get discounted much more readily than others, perhaps because styles have changed between the time the goods were ordered and the time they have reached the shelves.

This speaks to the second criterion, the structure of the industry. Stakeholders talk about large and small firms having different processes and levels of resources to manage supply chains (and the labour practices used within them). The supply chains of large retailers and manufacturers may include structures that source apparel directly from manufacturers or through importing and/or buying agents. There are no real standard industry practices. Some small retailers and manufacturers, particularly niche players, may similarly source apparel directly (example, Roots, Mountain Equipment Co-op). However the majority of small industry players deal exclusively through importing and/or buying agents. As a result, it is almost impossible to accurately characterize a type of supply chain and reliably associate it with a type of apparel or apparel industry participant.

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[20] Birnbaum Case Study XIV, Brassiere, pages 41-42.

One can only imagine the variety and number of permutations of the supply chains used by individual retailers and manufacturers. As a result, this second criterion was characterized as important by all stakeholders, as was the third criterion, existence of appropriate information. Under conditions of quota changes, seasonal changes, the number of types of apparel, the use of intermediaries or avoidance of their use, direct sourcing or avoidance of direct sourcing, rules of origin, etc., it is no wonder that ETAG stakeholders would like better information about location of manufacturing. It is difficult for anyone, including industry stakeholders, to accurately describe, never mind report on, what is happening within their own supply chains in terms of sourcing. The additional dimension of fair labour standards must be seen as an even more difficult task, even for those already spending resources to ensure adherence to their own corporate supply chain codes of conducts.

The fourth criterion, availability of alternative suppliers, received a wide range of ratings, from low to high. To some, starting a new supply chain is hard, particularly given the descriptions of supply chains outlined above. Indeed, the suggestions that there are many suppliers that can do the job is seen as simplistic. Some ETAG stakeholders believe all supply decisions are made on price and that is why Canadian apparel industry players often change their supply chains. Such stakeholders rate this criterion as highly important. Industry stakeholders report supply chain decisions are much more complex and include a mix of price, quality, and on-time delivery.

Many large retailers also include production standards, including labour standards in the supply chain equation. Getting a handle on these practices is not a trivial task. It requires a number of trips to the manufacturing location and a number of test orders to make sure an effective relationship is set up based on all of the aspects of supply chain management. Birnbaum would support this broader view and states that decisions that focus entirely on price, such as direct cost, miss significant supply chain costs such as macro costs and indirect costs that, in many countries, are several times bigger than direct costs. From this perspective, the availability of alternative suppliers is of relatively lower importance. While it is true that there are many suppliers, it is the few good suppliers that the Canadian apparel industry values and seeks to establish relationships with.

The fifth criterion involves government administrative capacity. Here, again, there was a variety of views, ranging from highly important to not important at all. This is the result of differing perspectives on the degree of government involvement desirable to address the ultimate objective. Stakeholder that focus on and define the ETAG proposal as simply disclosure of manufacturing location information see government involvement as unnecessary and therefore this criterion has a relatively low importance. Those who instead focus on the ramifications of the proposal in terms of government accountability, competitive behaviour, trade initiatives, accurate information, and verification tend to rate this criterion as very important. Thus, as was the case under the information, there is a basic disagreement as to whether the government should be directly involved or whether it will stand on the sidelines, simply forcing the identification of location, then relying on others to address the issue of fair labour standards.

The final criterion concerns impact mitigation. All stakeholders rated this criterion highly important. This speaks highly of the commitment of all stakeholders to the use and promotion of fair labour practices in the Canadian apparel industry. Industry stakeholders are aware of industry practices and are concerned about the perspectives some stakeholders have of their industry as bad corporate citizens. Indeed, many industry and ETAG stakeholders reported on the efforts they are making to ensure that manufacturers used by the Canadian apparel industry adhere to standards that are acceptable to Canadian consumers, once those are effectively defined.

At the same time, stakeholders are worried about the limitation of their individual efforts or the efforts of Canada as a country at addressing the situation. Some manufacturing locations clearly do not follow acceptable standards. Hopefully Canadians do not use those locations as sources of apparel. Nevertheless,

industry stakeholders from time to time uncover unacceptable behaviours, or other stakeholders bring unacceptable practices they have found to the attention of the applicable Canadian retailer and/or manufacturer. At that point, industry stakeholders suggest they are willing to work with such locations to ensure that fair labour standards are implemented. But there are limits. For example, no Canadian retailer is willing to work with locations that routinely employ child labour, and often this may be grounds for immediate cancellation of sourcing contracts. Even for less serious offences the manufacturing location has to be willing and able to change its practices. Some are not, even after multiple attempts at addressing the situation and are abandoned. All this to say that all stakeholders look for ways to mitigate bad situations before or during contracts, or by terminating relationships. As a result, impact mitigation is a highly important criterion for the policy choice.

As demonstrated in Appendix G, Box 4, none of the policy options considered by stakeholders received high effectiveness ratings for maximizing technical criteria. The ETAG proposal sought principally to provide more supply chain information that relate to three of the technical criteria, underlining how difficult it is to currently follow developments in apparel supply chains. However, it was not very effective at protecting the proprietary supply chain information of industry participants and assumed that government would have little involvement in the process. The contract-based proposals only did an effective job for large clients, such as universities and cities, but did little to mitigate the situation for the industry or for consumers, being focused only on a limited number of apparel categories. The codes of conducts and certification initiatives were seen as effective at providing structure and labour practice information. But the quality of the information depended on an acceptable level of verification, and stakeholders disagreed on how to do this for the Canadian apparel industry. Bilateral trade agreements were seen as good tools but ones that were unable to effectively and quickly respond to the changing environment. Finally, the reporting proposal would be very effective at providing supply chain and fair labour standard information but not necessarily on a timely basis.

4.2.3 The Socio-political Criteria

Socio-political issues are at the centre of the issue of labour standards in the apparel industry. They relate to the human impact of the use and promotion of fair labour standards in the apparel industry, from the cultural factors in Canada that are driving our desire to do something about the issue to human factors in the countries that produce apparel. The stakeholders that participated in the analysis saw socio-political criteria as relatively important—and somewhat contentious. The importance ratings that stakeholders suggested relative to socio-political criteria are found in Appendix G, Box 5.

The first criterion concerns employee dislocation. Here, stakeholders were deeply divided. In one sense, none of the proposals really address the issue of employees who lose their jobs (or don't get a job in the first place) because an employer is not willing or able to adhere to labour practices and standards acceptable to Canadians. Nowhere is this more apparent than the issue of child labour. Indeed, what is the impact of our beliefs on a culture or a country that uses children as young as nine or 10 as key economic resources for families? At some point, our willingness to promote fair labour standards starts by not dealing with apparel manufacturers whose beliefs and practices differ too much from our standards. Is this not the price of our ethical standards? In that sense, the importance of this criterion relative to fundamental issues, such as child labour, is very low and other means such as foreign aid and education have to be used to address the dislocation of child workers. The fact that foreign aid, changing local cultural practices, and charity are not the primary responsibilities for stakeholders from the Canadian apparel sector is reflected in the ratings.

At another level, the majority of Canadian stakeholders care about the conditions that result when a manufacturer or retailer stops dealing with a particular location. They care about the relationships they have built up over time and about the expense of having to set up new relationships. This level of caring explains why manufacturing locations found not to be in compliance with codes of conducts are given several chances to improve and to meet the standards. Stakeholders rate the importance of employee dislocations as medium.

However, if that location is not able to provide the required elements of price, quality, and on time delivery, it cannot be relied upon by Canadians, who expect these things when they buy apparel from Canadian retailers. This is where stakeholders disagree on principle. A subset of stakeholders believe on moral grounds that we need to support employees in developing countries, even when the particular manufacturing locations fail to meet our standards and even after they have lost the contract due to an unwillingness or an inability to adhere to the required standards. Such stakeholders believe we must "work with them" to improve standards. This is what some might call charity work. Such stakeholders regard the employee dislocation criterion as highly important.

The second criterion, government responsibility for self determination, resulted in a similar range of views. Many stakeholders agree that as a country we need to exert political pressure on all governments to adopt the types of minimum standards that we as Canadians view as "right" and as "fair," including labour standards. However, it is only when we speak about our own domestic practices that we really have complete control on this issue. Governments in other countries can and have in the past chosen to ignore our pleas. Our choice is then to not deal with those who fundamentally refuse to believe in what we think is right.

This was reflected in the stakeholder perspectives on this criterion. Domestically, there was broad consensus that it was a highly important criterion: Canada should demand, and encourage, fair labour practices globally. In other jurisdictions, however, the degree of importance of this criterion depended on whether stakeholders thought it feasible and desirable to impose the use of Canadian standards over those in other jurisdictions. Stakeholders who believed that our standards were the right ones and that we should impose them in other jurisdictions tended to also rate the criterion as highly important. Stakeholders who believed our responsibility stopped at adhering to local government standards, as long as those standards were deemed not to be too far removed from our own requirements, tended to rate the global aspects of this criterion as low.

The third criterion associated with public/stakeholder pressure similarly reflected a range of views. Industry stakeholders believed that there are a few issues, such as the wish to eradicate slave and child labour, on which everyone agrees. For such issues, all stakeholders rate the criterion as highly important. Moreover, all stakeholders viewed strong stakeholder pressure as a prerequisite if Canada is to make progress on the issue. For other labour standards-related issues, such as a minimum living wage and freedom of association, there were strong disagreements among stakeholders, with industry stakeholders seeing these issues as of secondary importance and labour stakeholders referring to them as highly important. One of the stakeholders characterized the stakeholder pressure as "concentrated" within specific groups, as opposed to generally driven by consumers. From this, one might conclude that the only pressure being applied came from labour groups and other interest groups concerned about labour standards.

This is supported by our review of the available material. For example, Birnbaum mentions the issue of working conditions in this book and describes working conditions that are considered unacceptable in the industry.[21] He also characterizes examples of such behaviours as the exception rather than the rule, suggesting that many stakeholders make selective use of the available information to support their own agendas.

[21] Birnbaum pages 152-158.

Careful reading of the surveys and other material being characterized as examples of strong stakeholder pressure from consumer groups also appear to be centred on relatively high-profile issues, such as child labour, and on ILO standards. Yet, it is the full and complete adherence to ILO standards that is broadly thought to represent the desired direction for fair labour standards in the apparel industry. In the end, this criterion is either very important, or it is only important to a subset of stakeholders relative to this policy choice—depending on their perspective.

The fourth criterion concerns the level of political will. As with stakeholder pressure, all stakeholders agree that the political will needs to be there if Canada is to make a serious effort at addressing the issue of the use and promotion of fair labour standards. Industry stakeholders see the importance of this criterion as medium because they believe they are already addressing the issue by means of their codes of conducts and the efforts they make at enforcing them. In that context, the level of political will is of relatively lower importance. ETAG stakeholders see this criterion as much more important.

Whether they rate the importance of this criterion as important or not, most stakeholders suggest that they are worried about the current lack of political will relative to this issue. Stakeholders characterize the current efforts of governments as reactions to particular stakeholder groups, not as effective progress towards the use and promotion of fair labour standards.

There are also wide disagreement as to the level of importance to be given to the fifth socio-political criterion, reputation/image. Industry stakeholders suggest that the impact on the reputation and image of labour standards issues is generally medium to low, particularly relative to other factors affecting reputation such as quality/value/price of the apparel they offer, which tends to be more important for the majority of consumers. Saying that the importance of the criterion is relatively low is not meant in any way to suggest that the issue is not important, and the industry is quick to point out that they make considerable efforts to ensure that fair labour standards are used within their supply chains. What industry stakeholders do say is that isolated examples of unfair labour practices do not tend to harm their reputations as long as they are rectified as soon as the stakeholders become aware of them. However, the importance of this criterion would tend to rise with the frequency and severity of the issues uncovered. In such cases, the criterion becomes highly important. In other words, being associated with a particularly bad case of unfair labour practices or being repeatedly associated with particular unfair behaviours would have much more impact than infrequent occurrences.

The importance of the sixth criterion, drivers and motivators, are rated as medium to highly important by stakeholders. Here, all stakeholders agree that the motivations have to be right to effectively address the use and promotion of fair labour standards in the apparel industry. Industry stakeholders report that it is company culture and ethics that motivate them. In other words, fair labour standards are right. They stop short of being able to characterize leadership in this area as a competitive advantage, however. Industry stakeholders relate several examples of industry participants that have tried to characterize themselves and invest in "ethical" branding. Few have succeeded.

Industry stakeholders suggest instead that customers and management expect them to use and promote fair labour practices. Some companies even have a reputation for doing this at the expense of profits, for example Levi Strauss[22]. However, this type of reputation is characterized as the exception and is not generally thought to generate competitive advantage. Rather, not doing so is believed to generate competitive disadvantage. This again suggests that the importance of this criterion is relatively high.

[22] Birnbaum page 152.

Socio-political criteria are at the heart of these issues, where stakeholders and the apparel industry are being asked to make choices, sometimes difficult choices, based on the impacts of those choices on shareholders, consumers, and employees, including those employed in the supply chains. In spite of the broad range of ratings in the socio-political criteria, these are generally rated higher in importance than other criteria. The range reflects the difficulties and the differing perspectives that drive stakeholders as much as they reflect the complexity of the issue of fair labour standards. Do you avoid bad practices or do you lead better ones? Do you brand yourself as a leader or do you instead seek to avoid unacceptable situations? Stakeholders often changed their perspective depending on the issue being addressed, reflecting the context within which supply chain decisions are made every day.

Not surprisingly, the stakeholders' assessments of the effectiveness of each alternative proposal reflects deep convictions relative to the criteria. Appendix G, Box 6 provides the result of the effectiveness assessment of each proposal by socio-political criteria. It is apparent that none of the proposals was able to handle all the socio-political criteria very well. It also demonstrates that there was a wide range of views with respect to effectiveness among stakeholders.

Nevertheless, the proposals based on codes tended to do better, if only because it is difficult to force a recalcitrant stakeholder (industry, government, or interest group) into doing what is right in every case. The voluntary codes work best because they are voluntary. Socially minded companies gravitate to socially responsible codes and work diligently to abide by them. Industry minded social groups support socially responsible codes even if they don't immediately achieve all of their goals. Economically minded governments balance the needs for action against the undesirable impacts on the economy. It is the company culture, the practicalities of the situation, more than the codes themselves, that drive the effectiveness of proposals in terms of the socio-political criteria. You cannot easily enforce socio-political aspects of a policy that runs counter to the desire of market participants, those of the local community, and those of the global community. The old adage—you can lead a horse to water, but can't make him drink—appears to hold in this case.

This is not to say that the ETAG proposal is not effective in this area. The ETAG proposal is seen as particularly useful in providing information to support political will and public stakeholder pressure by making it easier to find and highlight unfair labour practices. Industry stakeholders suggest that they are already well aware of the public pressure relative to high priority areas, such as forced labour and child labour. In fact, many were making inroads in the area of socially responsible labour standards in third world countries well before the advent of that stakeholder pressure. Companies such as Levis and Mountain Equipment Co-op provide long-standing examples of deeply socially minded companies. This aspect of the policy decision will need to be based on the Competition Bureau's assessment of whether additional promotion of the issue is warranted and whether the various proposals contribute to the ultimate objective in this respect.

4.2.4 The Economic Criteria

Issues of economics are at the heart of many business decisions in the apparel industry, and it should come as no surprise that they are also important criteria in the issue of the use and promotion of fair labour standards. They relate to the economic impacts of apparel markets in both producing and consuming countries and of wages in producing countries. The stakeholders that participated in the analysis saw economic criteria as important and unevenly distributed. The importance ratings that stakeholders suggested relative to socio-political criteria are found in Appendix G, Box 7.

The first criterion concerns the level of risk. Stakeholders were quick to point out that the economics are completely different at the global and local levels. Globally the level of risk arising from this issue is quite low because there are many providers and many choices in sourcing apparel. Locally, particularly outside the developed economies, the stakes are quite high:

- If the developed world insists on standards that are too high, less developed economies will be unable to participate in global trade in apparel.
- If the standards are too low, workers get exploited and countries with dismal records go unpunished.

In effect, however, all of the economic risks are borne by the local communities whose working conditions are not considered "fair." None of the economic risks of this issue accrue to those already employing the required standards.

The importance of the second economic criterion, the potential for trade action is both more consistent and higher. This is because many of the proposals change the *status quo*. The disclosure proposal will require industry to open the books, so to speak, on their global supply chains. To access the Canadian market, international companies will have to open up their global supply chains to competitors, interest groups, unions, etc. If this is seen to be too painful, and industry stakeholders suggest it is extremely damaging, there will be trade action from companies in developed economies. Even the proposals for codes of conduct and for linking trade initiatives with discussions of labour standards will be perceived as shutting out certain less developed supplier countries from trade in apparel. Stakeholders therefore rate the importance of this criterion as medium to high, with industry stakeholders adding it is very important.

The economics of market structure are also seen as highly important. First, many of the challenges described by Birnbaum are economic in nature and relate to price and costs associated with sourcing apparel from all over the world and bringing it to market profitably. Second, the inherent disadvantages of certain countries, far away from the largest and most profitable markets for apparel and burdened by substandard infrastructures, drive some of the very behaviours that lead to unfair labour standards. Third, the market is already in a state of flux with the planned abolition of quotas by 2005. Some countries have the resources to make the necessary investment to improve performance and compete effectively in the newly liberalized global apparel market. Others will not be able to compete. These issues raise important concerns that need to be addressed by the various proposals.

However, it is under the fourth criterion, economic benefits and cost of solutions that the largest discrepancies occur. Here it quickly becomes apparent that some stakeholders believe the economic impacts of some solutions are most important for the producer communities and less so for the other communities. Local workers are most directly affected by the fairness of labour standards and by the response of the apparel industry to those standards. This is a particularly important aspect of the issue that all stakeholders recognize.

Manufacturers and retailers are also affected by labour standards, but there are differences of opinion. Some stakeholders see the criterion as highly important because the various proposals to address labour standards tend to single out the apparel industry. Others add that the impact of the full disclosure of supply chain locations under the ETAG proposal will be severe because it takes away a key competitive tool by making too much proprietary information publicly available. These stakeholders believe Canadian apparel retailers and manufacturers will become isolated, with serious economic impacts on both the export and domestic markets. Finally, a group of stakeholders believe the costs and benefits of the solutions will be relatively minor for the industry stakeholders, compared to their effects on workers and local communities. As a result, these stakeholders rate the importance of this economic criterion as medium.

The economic impact on consumers will be very important if the policy option selected leads to a structural change in the Canadian market. Examples of structural change could be U.S. retailers exiting the market because of the need to disclosure global supply chains or the requirement to belong to a fair labour practices certification program if it has an important impact on consumers. Similarly, restrictions that would significantly increase the quantity of apparel sourced in developed countries, because of very stringent labour standards requirements, or that would cut the availability of low-cost producers of apparel to Canadian retailers and manufacturers would have significant economic impacts. Barring structural changes such as these stakeholders believe the economic impact will be medium at best since the labour components of cost, which would tend to rise as fair labour standards are implemented, are relatively small. All stakeholders add that the importance of this criterion might change significantly depending on the policy choice of government. As such, it will be important to review potential impacts once a decision has been made, with a view of mitigating the impact on consumers.

The final stakeholder to be subject to economic impacts is the government. Here, again, the benefits and costs to government depend to a large extent on the policy decision. Some proposals assume the government will take a limited role in voluntary initiatives. Although this assumption may not be realistic, it causes these stakeholders to rate the importance of this criterion for government as low. However, as the government's role is increased, so is the importance level. For example, if trade sanctions arise out of the selected policy option, the importance of this criterion will also rise. If the selected policy option results in a need for government intervention, new laws, and the like—as was the case in Australia—then the importance of this criterion rises. If there is litigation, either from Canadian apparel industry players worried about the expropriation of proprietary information or from foreign countries worried by the interference of Canadian policy in their affairs, the importance of this criterion would rise. As a result, a subset of stakeholder considers the importance of this economic criterion to governments to be very high.

The remaining two criteria, consumer contact/industry visibility and transparency of compliance are considered to be relatively important. In all scenarios, stakeholders believe efforts by the industry will tend to increase consumer information and raise the profile of the industry with respect to labour standards. At the same time, these efforts naturally increase the transparency of their compliance and so make the transparency criterion highly important. This, in and of itself, will also tend to increase the contribution of the Canadian apparel industry to this global issue and, in the process, further increase the importance of both the visibility and transparency criterion.

As demonstrated in Appendix G, Box 8, none of the policy options were considered by stakeholders to be highly effective at maximizing economic criteria, and stakeholders' views differed considerably, depending on whether they represented ETAG stakeholders, industry stakeholders, or government stakeholders. This is demonstrated by the range of effectiveness ratings given to various proposals by stakeholders, from low to high. The ratings on some proposals were highly contentious relative to the level of risk and potential for trade action, depending on whether stakeholders believed national treatment or voluntary action could prevent trade actions from taking place.

The stakeholders could not agree on a proposal that would be particularly effective at addressing the level of risk, particularly in the local communities affected by actions to improve labour standards. ETAG stakeholders thought the ETAG proposal was highly effective, whereas industry stakeholders thought disclosure would instead cause the industry to retrench to apparel producers in more developed areas as a way of reducing the likelihood that unfair practices are being used covertly by certain manufacturers. Industry stakeholders favoured solutions where retailers or manufacturers had to make efforts in the area of labour standards enforcement through codes of acceptable standard and frequent monitoring, or effective manufacturing plant certification processes. Such initiatives were driven by a desire to improve conditions, not the threat of being discovered. ETAG stakeholders believed these voluntary initiatives to

be largely public relation exercises with no real intent for improvement. To say that stakeholders disagreed on the effectiveness of the various proposals would be a serious understatement of perspectives.

Most of the perspective around the consumer contact/industry visibility and compliance criteria were less contentious, although the differences in effectiveness ratings centred around the issue of verification. Thus, where stakeholder verification of compliance was effective, proposals were thought to be highly effective. Without verification, the effectiveness of many of the proposals dropped considerably.

Most stakeholders believed that the effectiveness of many of the proposals, including the ETAG proposal (in the absence of public disclosure of supply chain information), would rise with an acceptable independent third-party process for verification of labour standards. However, stakeholders could not agree on what this would mean in real life. ETAG stakeholders often believed that their representatives should be verifying compliance with fair labour standards. Industry stakeholders believed that auditing firms, governments, or industry experts should be the primary verification instruments. In general, the discussions around these economic criteria and the perspectives of stakeholders reflect the alternate objectives of stakeholders outlined in chapter 2 of the report.

Not surprisingly, the ETAG proposal, albeit indirectly, was seen to be most effective at protecting the economic interests of consumers, workers, and local communities. Similarly, the codes of conduct and certification initiatives were seen to be most effective at maximizing the economic interests of retailers and manufacturers.

There was general agreement that the procurement and trade initiatives were too slow and not particularly effective at addressing the issue of labour standards because of their limited scope. Thus, procurement initiatives only addressed the issue for items purchased by universities and cities that enforce the requirements. Stakeholders also agreed on the uncertainty around the degree of enforcement that is possible or even likely in procurement agreements. In addition, such initiatives would only be effective for a subset of apparel. The practices for other apparel would only be indirectly affected, if at all.

Labour standard agreements in parallel with trade initiatives were thought to be effective only after an agreement has been reached with particular countries—and then only if they are enforced. So far, only a few such agreements (for example, with Costa Rica) have been implemented.

Finally, the reporting proposal was seen to be largely ineffective because one would need continuous and frequent reporting in order to inform consumers on practices and contribute to the promotion of fair labour standards. Stakeholders generally believed doing such reports continuously would be expensive and cumbersome, and provide information that would likely be out of date by the time it is published.

5. The Optimal Policy Mix and Fair Labour Standards

If nothing else, this report clearly demonstrates that the ETAG proposal and its immediate objectives are substantially different from the labelling policies of other countries and that they significantly expand the facts-based labelling requirements for Canadian apparel. Before the government makes a decision about the proposal or about ethical labelling, several more basic decisions need to be made, including:

- By requiring considerable details about location, Canada would become the global leader in providing information about supply chains of its industry to consumers. Do we want to lead in this area? As suggested by the information in the report, this is not a trivial decision.
- The ETAG proposal moves textile labelling in Canada away from testable facts-based labelling. All of the information on the label, except for country of manufacture, is currently based on facts which can be tested by examining the apparel, i.e., fibre content, quality, colour, etc. Complaints can be verified by obtaining a garment and testing it. The determination of whether the garment contains a specific fibre or falls apart in the wash can be scientifically determined. There is little room for error. Location is different, as is illustrated by cases of illegal trans-shipment where the country of manufacture is falsified to get around restrictive quotas established in the apparel industry. Thus, can the government provide effective information about fair labour standards by putting additional information on the label?
- Assuming the answers to the first two policy questions are yes, then the government is faced with deciding how to do it. This raises a series of questions concerning how to substantially expand the requirement for location information and how to overcome the resulting challenges to do with determining the validity of the information.
- In spite of claims to the contrary, the ETAG proposal is not as simple as it seems, and this report highlights some of the issues that were raised by stakeholders about the proposal. Others issues are likely to come to light only as actual requirements are finalized. Is government willing and able to address such a complex issue with labelling?
- Information quality is an issue. There are fears that requiring more details about location, an aspect of apparel that is difficult to test, may lead to a label that accidentally or deliberately provides false information. Can these fears be addressed?
- Quantity of information is an issue. There are fears that under some implementations there is so much information that consumers will become confused, not informed. Can a sufficient and effective level of information be provided on this issue?
- The location of the information is an issue. Under most implementations, the information required by consumers who want to be informed about fair labour standards will not fit on existing labels. Options for informing consumers include special labels, reports and/or web sites. Should these be maintained by third parties such as the industry, NGOs or associations, or by government? Are these effective ways to inform consumers on apparel purchases? Which ways are most effective?
- The timeliness of the information is an issue. Most information currently on garment labels is timeless. Once imbedded in a garment, fibres and colours and country of manufacture will never change and can be tested. One cannot say the same thing about labour standards: they can only be observed at the time the garment was made. Indeed, the information is obsolete the moment the apparel leaves the factory. For example, by the time the consumer is informed about the fair labour standards used for a particular garment, the factory where the garment was made may be closed or a different factory may now be used for the same garment—and no one will ever be able to really test the labour standards claims relating to the apparel. Similarly, working conditions which might have been good at the time of manufacture may have deteriorated. Alternatively, bad conditions at the time of manufacture could have significantly improved by the time someone shows up to verify labour standards. What would constitute false labelling in cases where the information cannot be tested *ex post?*

- Determining which information to require is an issue. What constitutes fair labour standards, and can this be reliably determined? Is it local standards? Is it ILO standards? Is it an expanded version of the ILOP standards (for example, including minimum wage levels?) Does this include ILO standards that may contravene one or more of the local laws?
- Verifying the information is an issue. Who determines that a contravention existed at the time the garment was made? When is the determination made? How are consumers informed?

5.1 In Search of Effective Policy

The OPM allows policy makers to ask important questions about policy choices but cannot make decisions for policy makers and stakeholders. It can provide some strategic direction to consider assuming that none of the proposed options, in and of themselves, are able to handle the policy objectives particularly well. The Conference Board would therefore make the following suggestions relative to the basic components of policy in this case. These suggestions are based on the report but go beyond the processes used to gather material for the report. They suggest that the challenge will be to devise an optimal mix of policies that address each of the components, i.e., the information, verification, and consequence components required to address the ultimate objective.

5.1.1 The Information Component

For many stakeholders, information about fair labour standards at individual manufacturing locations will continue to be elusive. First, individual location information, if publicly available and effective, may prove to be too complex and/or too contentious to be considered. This was covered in detail throughout this report. Second, it is difficult to imagine all of the ramifications of such a public disclosure requirement, particularly if Canada is the only country to require such a high a level of detailed disclosure. Would global suppliers present in Canada be willing to share this supply chain information with everyone, including other global competitors, just to ensure access to a relatively small market for apparel? Would Canadian suppliers be put at a competitive disadvantage internationally? Finally, consumers wanting to know about manufacturing standards will likely demand timely and accurate information at point of purchase, or in marketing materials, their main information sources when making apparel purchases. Claims and counter-claims of wrongdoing on the Internet or in reports will only confuse the issue.

If consumers want to know if fair labour standards are in use at the point of manufacture, we need to ask them about the breadth and depth of information they wish to receive and then make a point of delivering it clearly, simply and in a straightforward manner. Location details without an assessment of labour practices does not constitute effective and optimal information in relative to the ultimate objective. Indeed, there may not be an optimal level of information that will satisfy all stakeholders. Governments need only provide sufficient to satisfy the needs of most individual consumers of apparel. It is not clear from the range of stakeholder feedback that those needs have been adequately identified.

One way to address this and other concerns is to require the information to be shared confidentially with an independent third party, such as the Competition Bureau or some other government agency. With additional detail, a third party could verify, certify, and release the information to consumers that would effectively inform them on the fairness of labour standards. One idea might be analogous to the symbol-based nomenclature that characterizes the care of textile labelling. Symbols could be designed to accurately reflect information about labour standards used in the production of apparel, as opposed to by providing raw information. Unverified apparel would bear an ethical trading symbol reflecting the fact

that it is unverified; verified apparel would bear the appropriate symbol reflecting the standards used in its manufacture. Consumers could use such summary information in their purchase decisions, and the market would determine the value of ethical practices—and, more importantly, drive the industry towards desired behaviours. In light of competitive concerns, publicly available information detailing all locations and practices is not likely to be necessary except in serious cases of fraud or when clearly unfair practices are uncovered.

5.1.2 The Verification Component

Even when stakeholders agree that particular features of the various proposals are useful, they disagree on the ways to verify their effectiveness. ETAG stakeholders want labour organizations and NGOs to verify compliance. Industry stakeholders want professional firms and industry experts to verify compliance. No side trusts the others to reflect the realities or even the facts of the cases. This suggests that neither voluntary initiatives nor disclosure requirements alone will satisfy all stakeholders. On the other hand, some disclosure and some voluntary initiatives will help inform consumers. Consumers should be the main beneficiaries of the disclosure, not ETAG supporters, not industry, not government.

At a minimum, this suggests that the government should determine and promote how it plans to respond to complaints of unfair labour practices used in the production of apparel sold in Canada. Dissemination of these verification requirements will go a long way towards ensuring that organizations already responsible for apparel under the existing laws are aware of and concerned about fair labour practices.

Secondly, the government could require public disclosure of the labour standards and verification processes used by industry to ensure that fair labour practices exist within their supply chains. If consumers want and demand such information, this would be a second step towards the ultimate objectives. Neither of these suggestions comes with any material changes to the labelling requirements, although they might broaden the scope of the work of some government agencies .

Finally, the government might consider identifying, verifying, and classifying organizations that it believes can inform consumers on this issue. These might be NGOs, industry associations, industry experts, etc, or third party organizations representing all of them, such as government agencies.. This would provide consumers with a "reliable" source of information on fair labour practices. It would be a great improvement on current information sources. More important, the process would help consumers verify and make sense of information currently being disseminated about labour the industry's practices.

5.1.3 The Consequences

Requiring the full dissemination of location information and waiting for interest groups to make claims about labour practices used in manufacturing is a very blunt tool. It opens the floodgates of information on Canadian providers of apparel and exposes them to a large number of pressures, as described in detail in this report. As such, disclosure may be an effective way to ensure that severe consequences exist for industry players that source apparel more cheaply by ignoring the types of basic labour standards that Canadians demand.

However, for those who already comply, this tool is viewed as a burden, as a cost, as a competitive threat. Providing what many stakeholders characterize as too much proprietary information may actually penalize the Canadian apparel industry as a whole. The industry adds that public disclosure of supply chains would:

- Make it more difficult to compete on exports, by disclosing alternative direct supply sources to clients,
- Discourage global participants from entering the Canadian market, by forcing them to disclose globally for the Canadian market, and
- Reduce competition, by helping retailers find direct sources.

Finally, they conclude by questioning whether targeting the apparel industry with no appreciable benefit to the Canadian market for apparel would be a wise policy choice. Yet, doing nothing may not be an option that is acceptable for Canadians.

Consequences would be more effective only if the industry players who demonstrate poor practices are the ones that are penalized. Penalties must accrue to those who don't behave responsibly, in the same way that organizations who sell unsafe products are identified and the products are recalled, and those that don't pay the appropriate taxes and duties are identified and penalized by the process. If information about supply chains is important, it could become an important consequence, for example, if it was released when repeated offences are uncovered and confirmed. The effectiveness of information deterrents will also be increased if, in addition to encouraging active avoidance of problem sites, they also inform other industry players who might also be using similar locations that problems have been found.

One of the proposals, as well as a few of the initiatives in the apparel industry, suggest certifying sites that comply with fair labour standards. A related consequence would be to publish a listing of nonconforming sites as a way to share the resulting pain with both supplier and buyer. This black list, if implemented internationally, would greatly increase the deterrent effect of poor labour standards for all apparel manufacturing sites by expanding the market effect of unfair labour standards. Setting up and maintaining this list would be challenging as whoever did so would want to avoid litigation risks, false claims, and improper use of the information. As mentioned before, working conditions can and do change over time and the list would have to be actively maintained. If done properly, however, such "black list" information could be a powerful deterrent.

Other consequences include fines, special levies, and tariffs on retailers and importers. Although these might make using unfair labour practices too expensive, they would not, in and of themselves, eliminate unfair labour practices. First, the economics of apparel, as described by Birnbaum, suggests that labour costs are often a very small part of the overall cost of apparel. Additional costs in the form of fines and other levies related to labour standards may only exacerbate the economics of apparel. Second, having additional tariffs from areas where unfair labour practices remain may only cause them to worsen, as local manufacturers seek to offset the added macro costs. Finally, monetary penalties are often dwarfed by other economic factors when it comes to social responsibility. As a result, it is likely that economic consequences alone will not eliminate the undesirable practices.

Given the concerns expressed by stakeholders, it would be important that penalties be increased somehow for repeat offenders and that isolated incidents not necessarily give rise to consequences. The complexity of the supply chains used by the apparel industry and the resulting risk of unwittingly or unknowingly using subcontractors that themselves use unfair labour practices is just a fact of life for this industry. At some point however, the "I did not know" defence will not stand the test of time, particularly with consumers increasingly concerned about supporting unfair labour practices.

5.2 Conclusions

The issue of concern—the use and promotion of fair labour standards in respect of apparel sold in Canada—requires the attention of all stakeholders, not only government. This report presents a series of

issues and factors that should help government make a more effective policy choice. In making the policy choice, the government may want to ask any one of the line ministries mentioned in the report to lead the issue, and that ministry will need to work with the other line ministries if it wants to significantly address the issue of fair labour standards.

However, the stakes are high, and not necessarily highest for Canada. If Canada and the developed world insist on labour standards that are too high, less developed economies will be unable to participate in global trade in apparel. If they are too low, workers get exploited and countries with dismal records go unpunished. In effect, many of the risks related to this issue are borne by the local communities whose working conditions are not considered "fair." None of the risks of this issue accrue to those already employing the required standards, including most factories in Canada and the rest of the developed world.

In the end, a higher level of development is likely the only and best way to eradicate unfair labour practices, and it is not up to the Canadian apparel industry to single-handedly address the issue. A concerted effort by the entire government apparatus, combined with similar efforts around the world, is what will help most to resolve the issue of fair labour standards. In contributing to the solution or in taking a leadership position, Canada needs to balance the needs of the Canadian apparel industry with those of the global apparel industry and those of developing countries that are manufacturing apparel for the industry.

This report suggests a number of ways to modify the various proposals and alternatives, drawing on international and domestic examples brought forward by stakeholders. Concerns that too much proprietary information would be available in the public domain could be addressed by ensuring that such information is released confidentially and only by the appropriate agencies in cases when poor labour practices are documented. Concerns that the various proposals do not provide the required information on the incidence of fair labour practices could be addressed by combining the mandatory disclosure principles with mandated codes of conduct, supplier certification initiatives, and/or audited reporting on practices. Programs and initiatives could be devised to encourage, if not require, disclosure of the supply chain practices promoted by Canadian apparel retailers and manufacturers. Indeed, the report suggests that a combination of information, verification, and reporting initiatives on the issue of fair labour standards, combined with appropriate consequences when improper labour practices are uncovered, would likely be much more effective than any one of the initiatives currently suggested or implemented anywhere to address this issue.

Since the labour standards in plants making products sold in the Canadian market is an important issue, the Canadian government needs to think hard about whether Canada should become a leader in this area. In particular, the government needs to rethink the scope of its policy objective in light of the report. It needs to consider whether it wants to limit its efforts to the apparel industry. It needs to decide the extent to which fair labour standards in apparel production is a global issue and the extent to which Canada wants to play a role in improving them. Canada does not have the market power to single-handedly change labour practices in countries that supply its products through trade. However, it may want to play a leadership role by example or by exerting its influence in world affairs (for example, through development cooperation initiatives or support of international institutions).

If the Canadian government wants to play a leadership role, the Conference Board would encourage all stakeholders to contribute to a solution by defining an achievable objective that is acceptable to all stakeholders. It suggests that once a final objective has been set by government, it will be possible to bring together the efforts of all stakeholders to ensure that apparel sold in Canada is manufactured using fair labour practices wherever, worldwide, the manufacturing takes place

In a sense, the world is already contributing to the issue since apparel industry quotas are slated to be removed in 2005, earlier in Canada for those countries covered by the federal government's LDC Market Access initiative. By putting an end to a system that many say has been contributing to the great garment war, the world is signalling to retailers and manufacturers that they can source apparel wherever the conditions offer the best combination of price and quality. Since quality increasingly includes the conditions under which the apparel is manufactured, countries and suppliers that can demonstrate a commitment to fair labour practices will likely benefit from a freer trade environment as socially conscious retailers seek out more responsible suppliers. By also assisting developing countries on several related fronts, including education and training, perhaps Canada can help make it clear to countries that demonstrate a commitment to acceptable labour standards for the apparel industry that the best interest of the local work force is also in their best interest.

6. About the Optimal Policy Mix

Public policy making has become increasingly complex over the past 10 to 15 years. This is largely because of the increasingly litigious nature of our society, and the fact that the policy toolkit now includes not only traditional regulatory approaches but also a host of complementary approaches such as voluntary and non-regulatory initiatives and economic instruments. How can policy makers ensure they select the best combinations of approaches—the optimal policy mix—to meet specific policy objectives? How can ends and means be best matched to contribute to better policy making?

The Optimal Policy Mix (OPM) Framework is a methodology for considering policy objectives (ends) and policy instruments (means) in the development of policy.

6.1 The OPM Framework

The OPM Framework suggests that good public policy for any issues should embrace the following principal elements, or steps, as set out in the three boxes in Exhibit 1. These are:

- Develop policy objective/policy goal (end);
- Select policy instruments (means); and
- Evaluate impacts of alternatives and select preferred approach, including compliance issues.

These elements are preceded by the scoping of issues and risks and followed by the implementation of the preferred approach. Working through the elements of the OPM Framework is frequently iterative, involving revisiting ends, means, criteria, and impacts to identify a preferred approach. Stakeholder involvement at each stage is crucial. It ensures a shared understanding of the issues, objectives, assumptions and policy choices, along with their compliance implications. More importantly, the process informs stakeholders of the sometimes-difficult policy choices that are almost always made in any instrument choice situation. It is this level of broadly based understanding that makes the resulting instrument choices and policy outcomes more acceptable to stakeholders and so less likely to ;lead to litigation.

This type of policy setting exercise takes time, and a willingness to think outside the box in terms of policy instruments. In exchange for this, the process instills a level of rigour in the policy setting process that helps ensure that potentially more optimal policy decisions and alternative instrument choices are at least considered as part of the policy maker's toolkit. In effect, it is the process that provides most of the value of OPM in policy setting.

This report describes the main elements of the policy objective and the OPM Framework as it applies to those objectives. Further information about the OPM Framework, about the scoping and implementing stages, as well as the stakeholder considerations that are integral to all parts of the process can be found in the Conference Board report entitled: *The Optimal Policy Mix, Matching Ends and Means in Environmental Policy Making.*[23]

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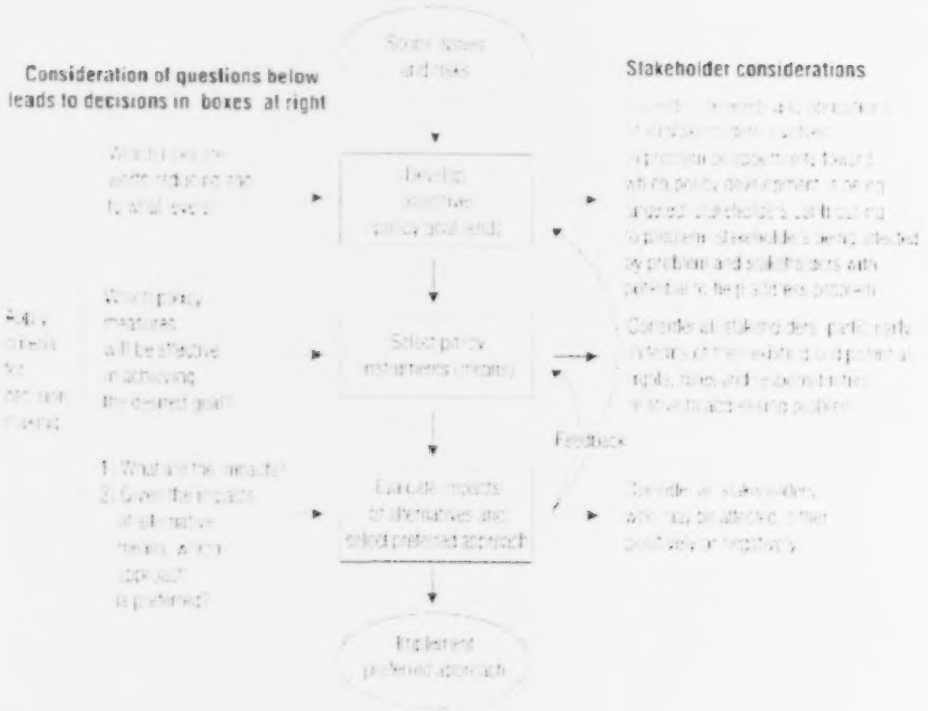
[23] *The Optimal Policy Mix: Matching Ends and Means in Environmental Policy Making* (Ottawa: The Conference Board of Canada, 2000).

Exhibit 1

Key Elements of the Optimal Policy Mix Framework


Consideration of questions below leads to decisions in boxes at right
Stakeholder considerations
Develop objective (policy goal and)
Select policy instruments (means)
Evaluate impacts of alternatives and select preferred approach
Implement preferred approach
Feedback

Appendix A: Apparel-related Fair Labour Standard Resources

Print References

Birnbaum, David, *Birnbaum's Global Guide to Winning the Great Garment War* (Hong Kong: Third Horizon Press, 2000).

Yachnin, Ron, et al., *The Optimal Policy Mix: Matching Ends and Means in Environmental Policy Making* (Ottawa, The Conference Board of Canada, 2000).

Web References

(Please note that the following descriptions and Internet addresses are accurate as at 28 January 2003.)

The Ethical Trading Action Group (ETAG)

ETAG includes the Canadian Council for International Co-operation (CCIC), Canadian Labour Congress (CLC), Labour Behind the Label Coalition, Steelworkers Humanity Fund, Ten Days for Global Justice, Union of Needletrades, Industrial and Textile Employees (UNITE). The Maquila Solidarity Network acts as the ETAG secretariat. (www.maquilasolidarity.org)

Retail Council of Canada's Responsible Trading Guidelines

This site provides a wide range of information, including responsible trading guidelines in its archive section. (www.retailcouncil.org)

Canadian Apparel Federation

This site provides labour-related information. (www.apparel.ca)

Supporting European Initiatives on Monitoring and Verification of Codes of Conduct in the Garment and Sportswear Industries (SOMO)

The resource list contains documents on multi-stakeholder initiatives concerning this project as well as audit reports, discussion papers, and reports on labour standards. For a look at national initiatives, use (www.somo.nl/monitoring/project/fo-character.htm). For a look at the SOMO resource list, use (www.somo.nl/monitoring/resource.htm#sw).

The Workers' Rights Consortium (WRC)

The WRC is a non-profit organization created by college and university students, administrators, and independent labor rights experts to help enforce manufacturing codes of conduct adopted by colleges and universities. These codes are designed to ensure that factories that produce goods bearing college and university logos respect the basic rights of workers. The site reports the initiative grew out of the anti-sweatshop campaigns of the United Students Against Sweatshops in the United States. It is an alternative to the Fair Labor Association's brand certification program. The WRC does not certify brands or factories as being in compliance with the WRC Code or the codes of conduct of its member universities. It investigates factories independently and in response to worker or third-party complaints. The WRC does

not accredit external monitoring groups or social auditing firms to carry out the investigations. There are more than 90 colleges and universities affiliated with the WRC. In the United States, the manufacture of university licensed apparel products is a $2.5 billion business. (www.workersrights.org)

The Fair Labor Association (FLA)

The FLA is a non-profit organization combining the efforts of industry, non-government organizations (NGOs), colleges, and universities to promote adherence to international labor standards and improve working conditions worldwide. The FLA was established as an independent monitoring system that holds its participating companies accountable for the conditions under which their products are produced. To advance fair, decent, and humane working conditions, the FLA enforces an industry-wide Workplace Code of Conduct, which is based on the core labor standards of the International Labour Organization (ILO). (www.fairlabor.org)

Ethical Trading Initiative (ETI)

The ETI describes itself as an alliance of companies, NGOs, and trade union organizations committed to working together to identify and promote ethical trade—good practices in the implementation of a code of conduct for good labour standards, including the monitoring and independent verification of the observance of ethics code provisions as standards for ethical sourcing. Membersare committed to business ethics and corporate responsibility, and promotion of worker rights and human rights in general. In employment, ethical business includes working towards the ending of child labour, forced labour, and sweatshops, as well as looking at health and safety, labour conditions, and labour rights. (www.ethicaltrade.org)

Clean Clothes Campaign (CCC)

The CCC is a coalition of trade unions and NGOs, including development, consumers, solidarity, and fair trade organizations. It is active in 11 European countries and embraces nearly 300 organizations. (www.cleanclothes.org/campaign.htm)

As of January 2003, the CCC web site describes the work of its subsidiaries in 13 European countries. Selected countries are highlighted here::

- Germany: The CCC here is discussing a pilot with Adidas, and Puma, and is taking part in the German Roundtable concerning the GTA pilot in India. It has entered into talks with Europe's largest retailer, Karstadt Quelle. (www.saubere-kleidung.de)
- Spain: This CCC has begun to cooperate with Spain's major retailer, Mango and Burberry, about its Moroccan suppliers. http://www.ropalimpia.org)
- France: This CCC, Ethique sur L'Etiquette, has a cooperative relationship with Auchan, France's second-largest retailer and is taking part in a new pilot in China. It includes some 60 NGOs and trade unions. (www.ethique-sur-etiquette.org)
- Switzerland: This CCC project includes retailers, Migros, Mabrouc, and Charles Veillon, as well as NGOs Bread for All, Berne Declaration, and Catholic Lentenfund. (http://www.cleanclothes.ch)
- Sweden: This CCC is involved in started a campaign targeting clothing retailers Hennes & Mauritz, Kapp-Ahl, Lindex, and Indiska in 1997. By the summer of 1998, the Swedish CCC had signed a declaration with the companies, stating their intention to adopt a common code of conduct and collectively develop a system for independent verification—The Swedish Project on Independent Verification. (http://www.renaklader.org
- The Netherlands: This CCC, along with trade unions and federations, started negotiating with industry federations as early as 1994. The NGOs and the unions involved were proposing to set up a foundation to oversee the implementation of a code called the "Fair Wear Foundation" and to monitor

and verify signatory companies. Companies complying with the foundation's regulations would receive as a certificate a trademark. The original aim was to involve the federation of large enterprises, but by 1996 it was clear that no progress was being made with them. (http://www.cleanclothes.org/nlindex.htm

Social Accountability International (SAI)

SAI describes itself as working "to improve workplaces and combat sweatshops through the expansion and further development of the international workplace standard SA8000 and the associated S8000 verification system." It does this by helping develop consensus based voluntary standards, helps accredit facilities and promotes the implementation of standards worldwide. (www.sa-intl.org)

Fair Wear in Australia

The Fair Wear campaign describes itself as a "coalition of churches, community organizations, and unions." The Fair Wear Campaign addresses issues arising out of the use of workers who make clothing at home in Australia. . (http://fairwear.org.au/home.html)

Business for Social Responsibility (BSR)

BSR describes its mission as seeking "to create a just and sustainable world by working with companies to promote more responsible business practices, innovation and collaboration." BSR started in 1992 as an association of about "50 mainly small and medium sized companies dedicated to helping businesses be both commercially successful and socially responsible". Membership is currently quite diverse and includes the founding companies such as Ben and Jerry's, Patagonia, and Tom's of Maine, as well as larger companies such as Liz Claiborne, Phillips Van Heussen, McDonalds, Charles Schwab, Coca Cola and Ford. The website reports that these companies "recognized the long-term impact of globalization on human rights, communities, and the environment". On the web site, BSR suggests that over nearly a decade, it "acquired extensive experience working with businesses and facilitating interaction with representatives of public and nonprofit sector organizations. BSR continues to work with companies of all sizes and from all sectors to advance responsible business practices throughout the world." (www.bsr.org)

TransFair Canada

Transfair describes itself as "Canada's only independent certification organization for fair trade in coffee, tea, cocoa, and sugar. The Fair Trade Certified logo is an independent certification that reflects monitoring criteria and standards set out by the Fairtrade Labeling Organizations International (FLO)." TransFair reports on its web site that "Canadian importers and distributors must follow certain criteria:

- pay a minimum price that covers the costs of production,
- advance payments or extend credit to producers to help them avoid debt while financing the next year's production, and
- agree to longer term trading relationships that provide producers with added security to plan for the future and promote sustainable production practices. (http://www.transfair.ca)

Although this is not currently the case, apparel could be considered for inclusion to the group of products covered by the Fairtrade label.

Appendix B: A Historical Perspective on Improving Working Conditions

With other concerned groups, ETAG views the working conditions for apparel workers in some countries as unacceptable. Child labour, pregnancy tests, abysmal wages and earnings, unacceptable work volumes, physical working conditions, and questionable management practices—sometimes sanctioned by foreign governments—offend Canadian sensibilities.

This Appendix looks at selected issues that impact the ETAG proposal or its objective: addressing the use and promotion of fair labour standards in respect of apparel sold in Canada. It reviews a number of the issues raised by stakeholders and provides an analysis of their cause, effects, and impacts on the apparel industry in general.

The Definition of a Sweatshop

At the heart of the issue is finding a way to define what constitutes a sweatshop and what are acceptable practices in countries that produce apparel. Until a universal determination can be made of what constitutes a sweatshop, there will be an uneven application of guidelines, particularly in countries with limited resources or willingness to enforce their own standards (which may be quite different from international standards).

Because labour laws vary, what may be deemed a sweatshop in one country may not be deemed one in another. Home workers are also frequently used in some countries. Home-based contractors are often left to decide for themselves how they will work—and under what conditions—since they operate in their own premises. Suppose a home worker works in sweatshop conditions, yet works willingly, to support a family. Is the worker truly working in a sweatshop?

Sweatshops are most often described as a workplace in which workers are employed for long hours at low wages and under unhealthy or oppressive conditions. The U.S. General Accounting Office has developed a working definition of a sweatshop as "an employer that violates more than one federal or state labour, industrial homework, occupational safety and health, workers' compensation, or industry registration law." Sweatshops are generally considered to offer wage rates that are well below a basic standard of living and wages that do not reflect the work performed. They often feature long hours of difficult work performed in inhuman conditions.

The term sweatshop was derived from the English word sweater. It was used in the 1850s to describe an employer or middleman who paid very low wages for long, monotonous work. The word sweatshop described a subcontracting system in which the middlemen earned profits from the margin between the amount they received for a contract and the amount they paid to the workers. The margin was said to be "sweated" from the workers because they received minimal wages for excessive hours of worked in unsanitary conditions. In the 1880s, this type of work, or 'sweating' became widespread in the United States when a large number of migrant workers from eastern and southern Europe were available for very low wages. Not long afterward, with the industrialization of the many countries in Asia and Latin America, this phenomenon emerged there also. This is the phenomenon that Birnbaum describes in the book used as a resource for the report.

Sweatshop conditions are thought to be prevalent in situations where certain "lower" socio-economic conditions exists:

- a large unskilled and unorganized workforce (which may include children) is readily available;
- the workforce is desperate for work;
- questionable management practices that take advantage of this workforce are used; and
- the state or governing body is ignorant of the situation, is incapable of rectifying it, or is lacking in resources or willingness to intervene.

Poverty and weak economies are the root causes of sweatshops, largely because workers and/or their governments feel they have to accept whatever conditions they are given and the alternatives are considered less appetizing. Arbitrary employment practices are also a driving factor in workers accepting their working conditions: the fear of losing their only income-generating opportunity is a great motivating factor in maintaining their silence and bearing their work load. In some cultures, people we consider to be children are encouraged to marry and have children at a very young age. In time of dire need, it is not difficult for those in such cultures to imagine children as key economic resources, who can assist their families by working in factories. This particularly appalling reality is offensive to all Canadians and is at the heart of stakeholder concerns.

Stakeholders from developed countries often forget that at the turn of the century, and during the Depression, similar conditions existed in most countries. By the middle of the 20th century, legislation had been able to eradicate or control sweatshops in most developed countries.

According to the Encyclopaedia Britannica, four main factors have contributed to the control of sweatshops in the 20th century:

- growth of social idealism;
- pressure of the trade unions;
- extension of the franchise and the growth of labour practices; and
- greater economies of factory production and increased interest in human relations in industry.

Today, there are claims of sweatshop conditions in developed countries, despite considerable efforts by governments to ensure minimum labour standards. These usually exist in the illegal underground economy and remain hidden in slums. Sweatshop practices tend to be more prevalent in underdeveloped countries in Asia, Africa, and Latin America. When the Canadian apparel industry uses suppliers operating in those countries, they not only contribute jobs to the local economy, they are also seen to support, knowingly or unknowingly, operations that use working conditions that are worse than those that would be acceptable in Canada.

Is this a priori "bad"? Customs and practices vary from country to country. The issue of minimum working age is a case in point. Many families in many countries live in abject poverty. They send children younger than 16 years of age to work to earn the money to buy food, shelter, and other necessities. These young workers add to the family income, do not require child care, and have less opportunity to become involved in delinquent activities. In other words, the minimum working age of 16 prvelent in Canada may not necessarily apply in all countries.

The issue of minimum working wage is another case in point. Birnbaum talks about the wages for apparel workers in many developing countries being in the range of dollars per day. In the example, Brirnbaum lists daily wage rates for sewers in Italy in early 2000 as $133.20, whereas those in Bangladesh are $1.20 per day. In one example, he calculates the impacts to the retail cost of a shirt of doubling worker wages or cutting them in half. In either case, wages make up less than 2.3 per cent of the final price of a garment. This makes raising the wages offered to local apparel workers an appealing solution to the problem of low family incomes, which drives families to transform their children into wage labourers.

If raising local wages might help a great deal, lowering them would do very little good. Birnbaum shows that setting the wage rate at zero reduces the price of a garment by only 6.9 per cent.[24] Yet, despite the meagre wages of the apparel industry, countries such as Bangladesh, Pakistan, Sri Lanka, and Tunisia have made it the centrepiece of their export development plans.

A complete examination of developments in the global apparel industry is beyond the scope of this report. However, the material in this section illustrates some of the complex issues that drive the sweatshop phenomenon. Clearly, the root causes of sweatshops and of unfair labour practices are complex and go far beyond the practices of the Canadian apparel industry. They encompass other apparel industries around the world, government policies in the developing world, cultural issues, and basic economic factors that Canadian policy makers ignore at their peril.

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[24] Please see Birnbaum, Page 167

The Global Apparel Market

The apparel industry is extremely price sensitive. Birnbaum confirms that the difference of a few cents can make or break a deal. He characterises as short-sighted this practice, with its strict focus on direct costs. It makes sense that that overall costs, including macro costs and indirect costs, such as the cost of appropriate labour standards, need to be factored into purchasing decisions. However, current conditions don't support this view—and when it comes to investing in the workforce and in working conditions, many industry players focus on direct costs, thinking that even the smallest increment of costs can have the effect of pricing them out of the market.

The connection between cause and effect can be complex in the apparel market. Restrictions on importers who purchase from undiscerning manufacturers may not be felt by the manufacturer, i.e., the organization that is abusing workers. The Canadian market is small in relation to the global market for apparel and the threat of the loss of Canadian clients may not lead manufacturers to change their practices. They may simply turn to buyers who are willing to overlook some business practices. It is also possible that unscrupulous manufacturers will willingly send their goods to other countries, through middlemen, to circumvent quotas, as well as to disguise the fact that one or more of their garments are made under questionable conditions. And, at the end of the day, some may simply find it safer to produce apparel without regard to labour standards and to rely on subterfuge to sell the products into Canada than to produce the apparel in a more costly, albeit ethical, means.

With so many suppliers chasing so few purchasers and competition based on the highest quality at the lowest possible cost there is never a shortage of producers willing to make garments for less. The situation is exacerbated when governments in the developing world look to the apparel industry as the main engine of export growth.

The fact that competition is driving down the price of labour speaks to the industry's willingness and ability to address the issue of labour standards. Most industry stakeholders are very much aware of the issue and report working diligently to weed poor performers out of their supply chains. Some also have programs in place to work with suppliers found in default of manufacturing codes of conduct. They are often left feeling frustrated by the behaviours of some industry players, typically those in the developing countries themselves who appear willing to overlook these issues and buy from factories whose conditions we would find unacceptable.

Likewise, the Canadian apparel manufacturer or retailer who insists on proper working conditions for employees may soon find that by doing this he is pricing himself out of some markets. The market for garments is so competitive that even a small price difference in marketing flyers becomes a barrier. As suppliers to a relatively small country, Canadian apparel importers are often small customers of manufacturing plants in the countries in which they source apparel. They report that this sometimes leads to difficulties in finding facilities that are willing to work with them to provide even minimum working standards for local employees. Indeed, it may be culturally more acceptable to the ruling class of some countries to continue to exploit workers. Again, it is a matter of economics and culture. The temptation of local factory owners to simply pocket the additional resources being offered may be too great. In some cases, retailers have been told to source elsewhere by suppliers unable or unwilling to make the necessary improvements. Unfortunately, such factories continue to exist partly because of the existence of buyers willing to focus on factors such as the FOB price (Freight on Board), not working conditions.

In this environment, it may be difficult for a prospective buyer/importer to locate manufacturers in some countries who maintain minimum labour standards. Often, the buyer/importer has to work with manufacturers, many of whom are less sophisticated, to specify the minimum standards to which they must comply. The importer must then monitor the manufacturers, to ensure the continued adherence to the set standards. This continued vigilance costs a great deal of time and money, and only the largest-volume market players can usually afford it. Small-volume apparel dealers who cannot afford to enforce these standards and who must rely on local agents or importers run the risk of unwittingly supporting unfair labour standards.

Dishonest Agents and Middlemen

Small importers and retailers rely on agents and middlemen for apparel purchases and imports. This further complicates supply chain monitoring because such firms have to rely on the good faith and practices of others, often

located in other countries, for information on fair labour practices. Often, these agents or middlemen represent several manufacturers, with multiple locations. The ability to hide or transfer production between plants at a moment's notice makes verification particularly problematic and increases the difficulties of policing based on agreed standards and practices.

Working Conditions in the Apparel Industry

As recently as December 19, 2002, stories appeared in the media based on a news release claiming that major Canadian retailers support sweatshops as part of their sourcing policies. Both retailers quickly responded by describing the rigorous codes and associated processes they use to ensure their suppliers don't support these types of practices and to verify that the suppliers within their supply chains follow the codes rigorously.

From the retailer/importer/manufacturer's perspective, several factors contribute to the burden of the worker. Purchasers of apparel in some countries contribute to the issue when they are willing to turn a blind eye to substandard practices in order to source cheaper clothing. Such practices taint the industry and support behaviours and practices that many Canadians find offensive. If Canadians are the only ones willing to support better standards or to put standards in place, change is unlikely to happen.

In addition, stakeholders report that in many countries, local laws may not be applied, bribes may be the norm, and local management may resist change. Birnbaum calls these types of costs in the apparel industry "macro" costs, and adds them to indirect costs and direct costs to come up with a total cost of sourcing from a particular country.[25] A country whose macro cost and indirect cost are high simply cannot afford to pay its workers a fair wage and remain price competitive in the global market for apparel. Other macro costs related to infrastructure issues are telecommunication, transportation, corruption, education, and training. Indirect costs relate to the availability of value-added services at local factories where garments are made, such as skilled workers, value services, pattern making, trim, timeliness, and quality control. Birnbaum goes on to explain why working conditions in some countries are so poor—these countries have to compensate for their inefficiencies, their higher macro and indirect costs, by keeping direct costs low. After all, the apparel industries have to accept the world price for apparel. In this case, the factory controls only direct costs, those of wages and equipment, and other local costs such as heat and hydro.

All stakeholders agree that the participants in the apparel industry are doing business in a highly competitive environment with hundred of thousands of suppliers and tens of thousands of retailers. All stakeholders also agree that Canadian consumers demand high-quality apparel at reasonable prices. That is the nature of the industry, as described in books and commentaries by industry watchers. Birnbaum describes the industry in 2000 "as the worst year in its (the apparel industry's) century-long history," with the number of suppliers "rising geometrically."

These conditions are extremely challenging and tend to create the kind of low labour standards that Canadians are concerned about. This is an operating reality that will not be solved by Canadians alone. As long as countries are willing to condone unfair labour practices in the name of industrial development, Canadians and their apparel manufacturers will simply have to be vigilant and avoid situations that they find unacceptable.

The Need for Change in the Apparel Industry

Whether or not these issues are resolved through voluntary initiatives or government regulations, there is a need for considerable change to the current conditions in the industry. Some say the dismantling of the system of apparel quotas in 2005 will help, partly because it will allow the market to reward those with fair labour practices with contracts, which will swell the ranks of the group that uses the practices. At the same time, the pressure may be unbearable for countries with high macro and indirect costs, or those unable to adjust quickly enough to market demand. Failure to change will result in being cut out of the most important global supply chains.

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[25] Chapter 1 of Birnbaum's book explains the concept of full value cost analysis (FVCA), which seeks to estimate the final cost of apparel (FOB the destination country). Chapters 2, 2, 4, 5, and 6 of the book review the underlying concepts that in his view, drive the current global market for apparel.

As we have mentioned repeatedly, the issues surrounding labour standards in the apparel industry are not new, and ongoing calls for practice improvement worldwide are being led by developed countries that have already embraced the desired changes in their own apparel sectors.

The fact that the industry is being used to address widespread and endemic unemployment, particularly in developing countries, merely serves to complicate the issue of labour standards. Indeed, stakeholders suggest that some foreign governments may in fact believe that any job, even a sweatshop job, is better for their citizens than living on the street in abject poverty. This leads them to contribute to the problem by turning a blind eye to issues or by encouraging practices that Canadians would find objectionable. When we look to the perspective of our trading partners on the issue, many believe that a more balanced solution is required.

Appendix C: Additional Information About Selected Initiatives

Additional Information about Client-specific Codes

The Students Against Sweatshops groups mentioned in Chapter 3 of this report have been raising awareness, and groups in many provinces have started campaigns to pressure their schools and universities to adopt codes of conduct governing the production of clothing. The students report on their web site (http://www.campuslife.utoronto.ca/groups/opirg/groups/sweatshops/sas-c.html) that they are actively campaigning for sweat-free campuses in 18 universities across Canada. The first Canadian code for trademark licensees was passed at the University of Toronto in the spring of 2000. As of July 2002, it is reported that licensing or purchasing polices had been adopted at eight Canadian universities (Alberta, Laurentian, Western, Guelph, Waterloo, McMaster, Toronto, and Dalhousie). Codes adopted by three of these universities, namely Western, Guelph, and Dalhousie, were reported not to be stringent enough by Student Against Sweatshops. On these campuses, students are mounting campaigns to strengthen the codes and expand the requirements. Codes are also under negotiation at three other universities: Trent, Queen's and Memorial.

The web site also describes the process followed by Students Against Sweatshops. To acquire the right to sell to "coded" universities, a supplier must agree to a purchasing policy with guidelines against forced labour, child labour, harassment or abuse, discrimination, and intolerable hours of work. Other guidelines support freedom of association, the right to bargain collectively, the right to fair wages and compensation, health and safety, employment relationships, and reproductive rights. In addition, the purchasing policy contract specifies that the code is to apply to all of the Supplier's and Licensee's contractors. Throughout the Code, the term "Contractor" includes each contractor, subcontractor, vendor, or manufacturer engaged in a manufacturing process that results in a finished product for the consumer or any component of a finished product. "Manufacturing process" includes creation, assembly, packaging, and decoration. Such codes are still relatively new and have yet to be fully tested. However, it is assumed that for the categories of apparel covered by the contracts the contracts are binding and the standards are in force.

Similarly, many Canadian cities are inserting ethical standards into by-laws that govern purchasing. The City of Ottawa already covers ethical purchasing in tender documents. The City of Toronto has created by-laws in which they specifically mention items such as:

- a fair wage policy (http://www.city.toronto.on.ca/tenders/fair_wages.htm);
- the purchase of products manufactured in factories where children are used as slave labourers or where there are other exploitative circumstances that impede the development of children[26] and
- the purchase of coffee (http://www.city.toronto.on.ca/tenders/coffee.htm).

For example, under the purchase of coffee provision, coffee for the City of Toronto must be purchased from sources involved in programs that make a positive difference in the lives of coffee farmers or that have received the Transfair/Fair TradeMark Canada label. Transfair Canada is described as Canada's only independent certification organisation for fair trade in coffee, tea, cocoa, and sugar.

Additional Information about the Workers' Rights Consortium (WRC) (United States)

The WRC is a non-profit organisation created by college and university students and administrators, and by independent labour rights experts, to assist in the enforcement of manufacturing codes of conduct adopted by colleges and universities. These codes are designed to ensure that factories producing goods bearing college and university logos respect the basic rights of workers. The following descriptions reproduce selected details of the initiative. More information about this initiative can be found at www.workersrights.org.

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[26] Please see the section on City of Toronto purchasing bylaw at http://www.city.toronto.on.ca/council_highlights/2000/highlight_000704.htm

The web site reports that this initiative grew out of the anti-sweatshop campaigns of the United Students Against Sweatshops in the United States, as an alternative to the FLA's brand certification program. It states that the WRC does not certify brands or factories as being in compliance with the WRC Code or the codes of conduct of its member universities. Nor does the WRC accredit external monitoring groups or social auditing firms to carry out the investigations. Instead, the WRC conducts its own factory investigations in response to worker or third-party complaints, as well as on a proactive basis. In the United States, more than 90 colleges and universities are affiliated with the WRC and the manufacture of university licensed apparel products is a $2.5 billion business.

The WRC details a model Code of Conduct on the basis of which it will investigate its licensees. The Code has clauses that cover standards (wages, hours, overtime, child labour, forced labour, health and safety, non-discrimination, freedom of association, and women's rights). There are also guidelines on compliance and disclosure, verification, labour standards, the environment and remediation. This initiative provides an example of a type of verification regimes that could be adopted in Canada as an alternative to the ETAG proposal. This initiative is a mirror image of the initiative of Canadian universities, colleges, and governments aimed at supporting the ultimate objective of ensuring fair labour standards in the production of apparel.

Additional Information about the Ethical Trading Initiative (ETI) (United Kingdom)

The ETI reports on its web site that it brings together NGOs, companies, and unions to identify and promote good practices in the implementation of codes of conduct, including monitoring and independent verification. Companies such as Anchor Seafood, Body Shop, Chiquita, Levis, NEXT, Marks and Spencer, Safeway Stores, Brooke Bond Tea, Tetley Tea, and Twinings are members.

The ETI has developed a multi-sectoral Base Code based on ILO standards. ETI member companies agree to adopt or incorporate the Base Code, and must require that their suppliers meet the provisions of that Code within reasonable time frames. ETI members are currently participating in four pilot projects, testing various models of code verification. The following reproduces selected description of the initiative found on the ETI web site. Further details of the initiative can be found at www.ethicaltrade.org.

ETI's Base Code has the following requirements:

- freedom to choose employment;
- freedom of association and the right to collective bargaining;
- safe and hygienic working conditions;
- no use of child labour;
- payment of living wages;
- no excessive working hours;
- no discrimination is practised;
- regular employment is provided; and
- no harsh and inhumane treatment is allowed.

The web site reports that the ETI Base Code was the result of negotiations between trade unions, NGOs, and business in 1998. It is based on Conventions of the ILO, already mentioned in the body of the report.

Additional Information about The Fair Labour Association (United States)

The FLA Web site reports it is a U.S. non-profit organisation established in 1998 to protect the rights of workers in the United States and around the world. The FLA is reported to be the successor to the Apparel Industry Partnership (AIP), which was initiated by the White House in 1996 to address labour rights standards in the apparel industry. The FLA Charter Agreement presents an industry-wide code of conduct and monitoring system. The FLA accredits independent monitors, certifies that companies are in compliance with the code of conduct, and serves as a source of information for the public. Companies participating in the FLA include Adidas-Salomon, GEAR for Sports, Jostens, Inc., Joy Athletic,

Levi Strauss & Co., Liz Claiborne, Nike, Patagonia, Reebok, Eddie Bauer, Phillips-Van Heusen, and Polo Ralph Lauren. More information about the FLA can be found on the organisation's web site at www.fairlabour.org.

The web site reports that founding NGO members of the FLA include the Lawyers Committee for Human Rights, the National Consumers League, the National Council of Churches, and the Robert F. Kennedy Memorial Centre for Human Rights. Organisations affiliated with the FLA are represented by a Board of Directors that includes a chairperson, six representatives from human rights, consumer and labour rights groups, six industry representatives, and three college university representatives. To date, over 170 U.S. colleges and universities have affiliated with the FLA.

Additional Information about the FairTrade Labelling Organization

The FairTrade Labelling Organization (FLO) is reported on its web site to be a non-profit, membership-based association of National Initiatives (17 members worldwide) who promote fair trade labelling in their national markets. They report doing this by:

- lobbying governments for support;
- negotiating with importers and retailers; and
- running education programs with the aim of supporting marginalized producers on the road to sustainable development.

The web site describes the initiative as follows. A label identifies FairTrade products so that consumers will buy them, giving FairTrade producers access international markets on fair terms. FLO reports that it sets standards and certifies producers while monitoring them regularly. By ensuring the FairTrade quantities sold by the producers under FairTrade conditions were equal to the quantities sold to the consumers under the FairTrade labels, FLO guaranteed the product was a FairTrade product. As long as manufacturers agree to buy from registered suppliers according to FairTrade criteria, products offered are allowed to carry a FairTrade seal of approval.

FLO is described on its web site as the only certification system in the world where producers do not pay for their certification. The consumer pays for the FairTrade system. Traders pass on to consumers the higher FairTrade price and the premium that is paid to producers for FairTrade products. The National Initiative in the country where the products are sold charge licensees a fee for using the FairTrade label. This pays for all of FLO's certification and monitoring costs and for the National Initiatives marketing expenses. Including the cost of the system in the retail price sustains FairTrade labelling.

FairTrade Products currently include coffee, drinking chocolate, chocolate bars, orange juice, tea, honey, sugar, and bananas. On sale in most major European supermarket chains, FairTrade products are now available to a much wider public, with some FairTrade products achieving 10 per cent of national market share. In Canada, the best known example is FairTrade coffee. FairTrade products do not currently include apparel, but the concepts used in FairTrade could be adapted to apply to apparel. Information about the FairTrade initiative can be found at www.fairtrade.net.

The web site reports that in 1988, the Netherlands became the first country to launch the FairTrade consumer guarantee. Today there are labelling initiatives in developed countries in Europe, North America, and Asia.

The FLO was reportedly set up in April 1997 to coordinate the work of a growing number of national initiatives and to run monitoring programs more efficiently. A central responsibility for FLO is to collect data and ensure the effective audit of all FairTrade-labelled products from the producer to the supermarket shelf. The web site suggests that national initiatives retain responsibility for marketing and promoting FairTrade in their respective countries. Because of its success with many products, FairTrade presents an interesting alternative to the ETAG proposal.

Additional Information about World-wide Responsible Apparel Production (WRAP) (United States)

The WRAP web site at www.wrapapparel.org, reports that the WRAP Factory Certification Program was launched in January 2000 by the American Apparel Manufacturers Association (AAMA). The web site contains requirements that ensure fair labour standards and includes clauses on:

- workplace regulation;
- prohibition of forced labour;
- prohibition of child labour;
- prohibition of harassment and abuse;
- minimum compensation and benefits;
- prohibition of discrimination;
- health and safety requirements;
- freedom of association; and
- environmental and customs compliance.

The Certification Program is said to be particularly rigorous. Its stages are:

- self-evaluation;
- independent review by certified evaluators; and
- final review by the WRAP Certification Board.

The site reports that appeal for U.S. apparel manufacturers is its less onerous standards and the fact that responsibility for seeking, paying for certification, and achieving compliance lies entirely with local factory owners, not with North American companies that contract out the manufacture of their products. As such, it shares the responsibility for fair labour standards with the producers.

WRAP is being heavily criticised by some stakeholders (including those ETAG stakeholders that participated in the Conference Board OPM process) for not going far enough or involving enough manufacturing sites. Nevertheless, it would appear that WRAP has been relatively successful since, as of October 2002, WRAP had 1,025 certified manufacturing facilities in 68 countries. For more information, please refer to www.wrapapparel.org.

Additional Information about Australia's Retailers Ethical Clothing Code of Practice

The *Retailers Ethical Clothing Code of Practice* is an example of a law enacted by Australian state governments such as in New South Wales (NSW) to support the code of conduct (described earlier under section 3.1.9). This law is designed to help provide a new tool for tracking the largely invisible workforce in Australia, from the top of the contracting chain down. The actual text of the NSW legislation is reproduced in Appendix E.

One of the key objectives of this law currently before the Australian state parliament is reported to be to help identify this important component of the Australian underground economy. It basically requires Australian retailers to take action when exploitation of home workers is uncovered in the process of complying with the Fairwear Homeworkers Code of Practice. The code provides a requirement for retailers to share with The Textile Clothing And Footwear Union of Australia (TCFUA) information from their commercial records related to clothing industry suppliers and contracts. The code is meant to apply to Australian workers only and does not cover those in other countries.

It is reported that the new Retailer Ethical Clothing Code will strengthen the Retailers' section of the Homeworkers' Code of Practice, which was seen as ineffectual. The Manufacturer's section of the Homeworkers' Code of Practice remains, with the standards manual and the No Sweat Shop label from the Homeworkers' Code recognised in the new Code.

The web site reports that key elements of the Code include:

- Retailers will provide the union with a full list of clothing suppliers within 14 days of signing the Code and every six months thereafter.
- On request, the union can access details of retailers' individual contracts, including turnaround times for orders, the number of garments in the contract, a sample of the garment, and in some cases the price paid for the contract.
- Retailers undertake to end contracts where exploitation is proven and the problem has not been addressed by the supplier.
- The definition of exploitation includes the case where the retailer fails to fulfil obligations to suppliers under the Code, such as to provide the union with a timely lists of contractors. Such failures can constitute a reason for a retailer to end a contract with a supplier.
- Recognition of the Homeworkers Code of Practice Standards Manual for calculation of fair piece rates for outside workers working unsupervised at home.
- Recognition of the No Sweat Shop label with retailers undertaking not to discourage display of the label (Fair Wear would have preferred a commitment to encourage the label, but this was not forthcoming.)

Appendix D: The Homeworkers Code of Practice, Explained

NOTE: This appendix summarises descriptions of the Homeworkers code of practices found on TCFUA web site at http://www.tcfua.org.au/homeworkers_code.htm.

The content, which is not subject to copyright, is reproduced to illustrate disclosure requirements negotiated in Australia to address domestic homeworkers in the apparel industry. As at January 28, 2003, state legislation is in effect or has been tabled to make this code of conduct a mandatory feature of the labour law. The Conference Board makes no claims to the content of this appendix. Please refer to the original web site for more information.

What the Code is about

The Homeworkers Code of Practice is the product of joint negotiations between the Textile Clothing and Footwear Union (TCFUA) and representatives of the retail and manufacturing sectors of the textile, clothing, and footwear industries. The Code is a self-regulatory system set up to govern and monitor the production chain from the retailer to the homeworker. It also attempts to simplify the reporting requirements of manufacturers, with the existing wages and conditions as the baseline

Signatories

Signatories to the Homeworkers Code of Practice include:

- The Textile, Clothing & Footwear Union of Australia (TCFUA);
- The Council of Textile and Fashion Industries Ltd (TFIA);
- The Australian Chamber of Manufacturers, now known as the Australian Industry Group (AIG);
- The Australian Business Chamber (ABC); and
- Individual companies—retailers, fashion houses, wholesalers, and manufacturers.

Parts of the Code

Part 1 of the Homeworkers Code is directed at retailers. Part 2 deals with the obligations of suppliers, fashion houses, wholesalers, and manufacturers.

Part 1: Retailers

The Statement of Principles in Part 1 of the Homeworkers Code obliges retailers to require their apparel suppliers to undertake to comply with award provisions and other laws relevant to the engagement of homeworkers.

The retailer is to provide lists of their suppliers to the union and to include in their purchase contracts clauses relating to the appropriate award payment to homeworkers and compliance to laws and regulations. The retailer also commits to provide assistance to the union in the investigation of a suspected breach. Where the supplier does not comply, the retailer is to cease dealing with the supplier. Retailers may promote the fact that they deal only with accredited manufacturers who do not exploit homeworkers. Shops may display a label if they stock such clothing.

The Code in Action

In October 2002, the Australian Retailers Association (ARA) signed a national, ethical agreement with the TCFUA. Individual retailers must sign the agreement to indicate their commitment and intent to follow the Homeworkers Code. According to the agreement:

- The retailer will provide the union with a full list of their clothing suppliers every six months.
- On request the union can access details of the retailers individual contracts.
- The retailer will undertake to end contracts where exploitation is proven and the problem has not been addressed by the supplier.
- If a supplier to a retailer fails to fulfill an obligation under the award, such as to provide supplier lists, the retailer's contract can be terminated.

- The retailer agrees to recognize the Homeworkers Code of Practice Garment Sewing Time Manual for calculation of fair prices to homeworkers.
- The retailer recognizes the No Sweat Shop label and agrees not to discourage its use.

Part 2: Suppliers, Fashion Houses, Wholesalers, and Manufacturers
Part 2 of the Code sets out the accreditation criteria for participating suppliers, fashion houses, wholesalers, and manufacturers.

The Code's Practice Committee includes equal numbers of representatives of the union and employers, whose role it is to oversee the establishment and ongoing management of the Code. The Committee:

- accredits manufacturers;
- accredits retailers;
- registers and maintains trademarks, logos, and other identification items;
- administers education, publicity, and compliance funds;
- establishes grievance procedures and settles disputes; and
- develops standard product specifications.

The accreditation process helps ensure that, from the retailer to the homeworker, the chain is transparent.

Pay Rates for Homeworkers: the Garment Sewing Time Manual
The Code also introduce the Garment Sewing Time Manual, which translates hourly rates into homeworkers' piece rates. The manual acts as a computer-based mechanism for providing an estimate of the minimum labour content required for the production of each type of garment.

The sewing time per garment (in minutes) will be provided to the homeworker. Rates will be adjusted to provide for annual leave and public holidays. With each batch of work, the homeworker must receive paperwork that confirms that the homeworker is being paid according to the standard. The Code also specifies the minimum and maximum amounts of work a homeworker may receive from a contractor every two weeks. The manual is to be used as the basis for garment manufacturers to determine the level of wages to paid to homeworkers, the value of contracts, and as a tool to assess the accuracy of wages due in a dispute.

Accreditation
To gain accreditation, suppliers must provide records for themselves and their contractors demonstrating that:

- homeworkers are paid the proper rate;
- homeworkers are not working less than 30 hours or more than 76 hours per week;
- homeworkers are covered by workers' compensation;
- superannuation contributions are being paid;
- if work is no longer available, homeworkers are given appropriate written notice of their termination; and
- a standard letter concerning union membership is provided to the homeworker.

Suppliers must maintain lists of contractors and homeworkers and provide these lists to the TCFUA on demand. Accredited companies must check that their contractors comply with the same criteria. Manufacturers will risk losing accreditation and contracts with retailers if their contractors fail to pay homeworkers correctly or do not comply with all parts of the Code.

Monitoring
The TCFUA will be responsible for monitoring compliance with the Code. This includes identifying problems and making them known to the manufacturer, fashion house, wholesaler, or retailer. If the problem is not fixed quickly, the company responsible will lose its contract to supply the retailer or accredited manufacturer. The Code Committee can revoke a manufacturer's accreditation.

The No Sweat Shop Label
Following accreditation, companies are permitted to use a specially developed label in garments they manufacture in Australia. The label notifies consumers that the manufacturer is acting responsibly with those who make the clothing.

The Code and the *Trade Practices Act*

The Australian Competition and Consumer Commission (ACCC) has exempted the Code from the *Trade Practices Act* for five years. The ACCC was satisfied that the arrangements under the Code are likely to result in a benefit to the public; this is sufficient to outweigh any anti-competitive fall-out from the Code's implementation. The decision provides legal immunity to accredited companies.

Appendix E: Australia's Industrial Relations (Ethical Clothing Trades) Act 2001

NOTE:
This appendix reproduces the legistlation currently in force in the Australian state of New South Wales (NSW) in support of the Homeworkers code of practices described in Appendix D.

The material was obtained from a publically available database that contains consolidated legislation of the State of New South Wales as provided by the NSW Parliamentary Counsel's Office. The document can be found at . http://www.austlii.edu.au/cgi-bin/download.cgi/download/au/legis/nsw/consol_act/ircta2001434.rtf.

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Industrial Relations (Ethical Clothing Trades) Act 2001

As in force at 19 December 2001

Long Title
An Act with respect to outworkers in the clothing trades; to constitute the Ethical Clothing Trades Council and make provision with respect to a mandatory code of practice; to make related and consequential amendments to the *Industrial Relations Act 1996* ; and for other purposes.

Part 1 - Preliminary

1 Name of Act
This Act is the *Industrial Relations (Ethical Clothing Trades) Act 2001* .

2 Commencement
This Act commences on a day or days to be appointed by proclamation.

3 Definitions
In this Act:

award has the same meaning as it has in the *Industrial Relations Act 1996* .

Code of Practice Committee means the committee described in clause 5 of Part 2 of the Homeworkers Code.

Council means the Ethical Clothing Trades Council constituted by this Act.

employer of an outworker in the clothing trades means a person described in clause 1 (f) of Schedule 1 to the *Industrial Relations Act 1996* as the employer of the outworker.

exercise a function includes perform a duty.

function includes a power, authority or duty.

Homeworkers Code means the agreement, known as the Homeworkers Code of Practice, containing two parts and Part 2 of which was signed on behalf of The Textile Clothing and Footwear Union of Australia, The Council of the Textile and Fashion Industries Ltd, The Australian Chamber of Manufacturers and The Australian Business Chamber and various individual companies in 1997.

industrial organisation has the same meaning as it has in the *Industrial Relations Act 1996* .

industrial relations legislation has the same meaning as it has in the *Industrial Relations Act 1996* .

lawful entitlements of an outworker means the entitlements conferred on the outworker by law, including any entitlements conferred by or under the industrial relations legislation or any other legislation.

mandatory code means a code of practice in force under Part 3.

outworker in the clothing trades means a person described in clause 1 (f) of Schedule 1 to the *Industrial Relations Act 1996* and who is an employee within the meaning of that Act.

Note: A person described in Schedule 1 (f) as an outworker in the clothing trades is any person (not being the occupier of a factory) who performs outside a factory any work in the clothing trades or the manufacture of clothing products, whether directly or indirectly, for the occupier of a factory or a trader who sells clothing by wholesale or retail.
Target Code means the Deed of Co-operation between the Textile Clothing and Footwear Union of Australia and Target Australia Pty Ltd dated 28 July 1995.

4 Notes
Notes included in this Act do not form part of this Act.

Part 2 - Ethical Clothing Trades Council

5 Constitution of Council
There is constituted by this Act an Ethical Clothing Trades Council of New South Wales.

6 Membership and procedure of Council
(1) The Council is to consist of the following 7 part-time members:
(a) one person appointed by the Minister who is to be Chairperson of the Council,
(b) one person appointed by the Minister from a panel of 3 persons nominated by Australian Retailers Association, New South Wales Division,
(c) one person appointed by the Minister from a panel of 3 persons nominated by Australian Business Limited,
(d) one person appointed by the Minister from a panel of 3 persons nominated by The Australian Industry Group, New South Wales Branch,
(e) one person appointed by the Minister from a panel of 3 persons nominated by Labor Council of New South Wales,
(f) one person appointed by the Minister from a panel of 3 persons nominated by The Textile Clothing and Footwear Union of New South Wales,
(g) one person having such experience or skills in the clothing industry as the Minister considers will enable the person to make a contribution to the work of the Council or who is chosen by the Minister to represent consumer, community or other interests.

(2) The person appointed as Chairperson is to have such knowledge of outwork practices in the clothing trades as the Minister considers necessary to ensure that the work of the Council is efficiently performed.
(3) The Chairperson must not be a person who represents an employer or employees engaged in the clothing trades or a person who has a direct financial interest in the clothing industry.
(4) If nominations for the purposes of subsection (1) (b), (c), (d), (e) or (f) are not submitted within the time or in the manner directed by the Minister, the Minister may appoint a person to be a member instead of the member required to be appointed, being a person who in the Minister_s opinion is suitably representative of the persons represented by the bodies referred to in those paragraphs.
(5) Schedule 1 has effect with respect to the Council.

7 Functions of Council
(1) The Council has such functions as are conferred or imposed on it by or under this or any other Act.
(2) In particular, and without limiting subsection (1), the Council has the following functions:
(a) to advise and make recommendations to the Minister generally on the clothing industry and outwork practices in the clothing trades, including the impact of developments in that industry on outworkers,
(b) to advise the Minister on the level of compliance of sectors of the clothing industry with their obligations (whether or not voluntarily undertaken) to ensure that outworkers receive their lawful entitlements,
(c) to make recommendations about the means by which compliance with those obligations might be encouraged and enforced,
(d) to foster the adoption and observance of self-regulatory mechanisms, such as the Homeworkers Code and the Target Code, through consultation with the Code of Practice Committee, clothing industry retailers and manufacturers, relevant industrial organisations and other interested persons and bodies,
(e) to support changes to the Homeworkers Code that the Council considers might increase its effectiveness in ensuring that outworkers receive their lawful entitlements,
(f) to promote, as may be appropriate, the Homeworkers Code, the Target Code and any similar code and any code made under this Act, and persons who comply with those codes,
(g) to facilitate consultation between clothing industry retailers and relevant industrial organisations concerning the making and implementation of voluntary industry agreements such as the Target Code relating to outwork practices in the clothing trades,
(h) to conduct education programs, and to disseminate information, relating to outworkers and the clothing industry,
(i) to advise and make recommendations to the Minister on the operation, and any amendment to or revocation of the mandatory code (if in force) and the scope of any exemptions that should be given by the regulations,
(j) to make the reports referred to in this Part.
(3) The Council may provide advice, and make recommendations, to the Minister even though the Minister has not requested it to do so.
(4) In exercising its functions, the Council is subject to the control and direction of the Minister, except in relation to any report given to the Minister under this Part.

8 Quarterly reports
(1) The Council is to monitor and make quarterly reports in writing to the Minister of its findings as to whether outworkers in the clothing trades are receiving their lawful entitlements.
(2) The Council is to report on, and may include recommendations with respect to, any of the following matters in a quarterly report:
(a) activities of clothing industry retailers and manufacturers in relation to their obligations under the Homeworkers Code,
(b) participation by clothing industry retailers in voluntary industry agreements such as the Target Code relating to outwork practices in the clothing trades,

(c) activities of clothing industry retailers and manufacturers in relation to their obligations under the mandatory code (if in force).
(3) The first quarterly report for the purposes of this section is to be made as soon as practicable after the end of 3 months after the commencement of this section.
(4) The Minister may waive the requirement that the Council make a quarterly report for any period specified by the Minister.

9 Report on implementation of ethical clothing industry practices
(1) The Council is to evaluate, and report to the Minister on action (whether voluntary or otherwise) taken by the clothing industry during the period of 12 months after the commencement of this section to improve compliance in the industry with obligations to ensure outworkers in the clothing trades receive their lawful entitlements.
(2) The report is to include the Council_s recommendations as to:
(a) whether, if a mandatory code were made, it would improve compliance, and
(b) the content and suggested penalties for failure to comply with such a code.
(3) The report is to be forwarded to the Minister as soon as practicable after the end of the 12 month period.
(4) The Minister must, as soon as practicable after receiving the report, lay a copy of the report, or cause it to be laid, before both Houses of Parliament.
(5) If a House of Parliament is not sitting when the Minister seeks to comply with subsection (4), the Minister must present copies of the report to the Clerk of the House of Parliament.
(6) A report presented to the Clerk of a House of Parliament:
(a) is taken on presentation, and for all purposes, to have been laid before the House of Parliament, and
(b) may be printed by authority of the Clerk of the House, and
(c) for all purposes is taken to be a document published by order or under the authority of the House, and
(d) on the first sitting day of the House after receipt of the report by the Clerk, must be recorded:
(i) in the case of the Legislative Council in the Minutes of the Proceedings of the Legislative Council, or
(ii) in the case of the Legislative Assembly in the Votes and Proceedings of the Legislative Assembly.

10 Council may arrange for use of services of staff or facilities
The Council may, with the approval of the Minister, arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department.

Part 3 - Mandatory code of practice for outworkers

11 Nature of mandatory code of practice
(1) The Minister may make a code of practice for the purpose of ensuring that outworkers in the clothing trades receive their lawful entitlements.
(2) In particular, the Minister may make a code of practice if the Minister considers:
(a) that current voluntary self-regulatory mechanisms are inadequate to achieve improvements in the level of compliance with obligations to ensure outworkers receive their lawful entitlements, or
(b) that persons engaged in the clothing industry are not in good faith attempting to negotiate improvements or extensions to those voluntary self-regulatory mechanisms.
(3) The code may require employers or other persons engaged in the clothing industry, or a sector of the clothing industry, specified or described in the code to adopt the standards of conduct and practice with respect to outworkers in the clothing trades set out in the code.
(4) The code of practice may refer to or incorporate, with or without modification, a standard or other document prepared or published by a body specified in the code, as in force at a particular time or from time to time.

12 Making of mandatory code of practice
(1) The Minister may make a code of practice only after considering a report of the Council under section 9 (Report on implementation of ethical clothing industry practices).
(2) The code of practice is made by order published in the Gazette.
(3) The code takes effect on the day on which the order is so published or, if a later day is specified in the order for commencement, on the later day so specified.
(4) The Minister may, by order published in the Gazette, amend or revoke the code at any time.
(5) The Minister:
(a) must consult the Council and consider any relevant report or recommendation made by it, and
(b) may consult such other organisations or persons as the Minister thinks appropriate,
before amending or revoking the code.
(6) Copies of the following are to be available for public inspection, without charge, at the principal office of the Department of Industrial Relations during ordinary office hours:
(a) a copy of the code of practice,
(b) if the code of practice has been amended, a copy of the code as so amended,
(c) if the code of practice refers to or incorporates any other document prepared or published by a specified body, a copy of each such document.

13 Obligations under mandatory code
An employer or other person engaged in the clothing industry, or a sector of the clothing industry, specified or described in the mandatory code who fails, without reasonable excuse, to adopt any standard of conduct or practice set out in that code with respect to outworkers in the clothing trades that the employer or other person is required by the code to adopt is guilty of an offence.
Maximum penalty: 100 penalty units

14 Inconsistency between code and award
In the event of an inconsistency between the provisions of the mandatory code and the provisions of an award, the provisions of the award that are applicable to outworkers in the clothing trades prevail to the extent of the inconsistency.

15 Applied provisions
(1) The following provisions of the *Industrial Relations Act 1996* and the regulations made under that Act apply to and for the purposes of this Part (**the applied provisions**):
(a) Part 7 of Chapter 5 (Entry and inspection by officers of industrial organisations),
(b) Part 4 of Chapter 7 (Inspectors and their powers),
(c) Part 5 of Chapter 7 (Evidentiary provisions),
(d) Part 6 of Chapter 7 (Criminal and other legal proceedings),
(e) any other provision prescribed by the regulations.
(2) The applied provisions have effect subject to such modifications as are prescribed by this Part or the regulations.

16 Interpretation of applied provisions
For the purposes of the application of the applied provisions, a reference in the applied provisions:
(a) to this Act (that is, the *Industrial Relations Act 1996*) is to be read as a reference to this Act (that is, the *Industrial Relations (Ethical Clothing Trades) Act 2001*), and
(b) to the regulations is to be read as a reference to the regulations under this Act, and
(c) to the industrial relations legislation includes a reference to this Act, and
(d) to employment is to be read as a reference to employment as an outworker in the clothing trades, and
(e) to an employer is to be read:
(i) as a reference to an employer within the meaning of this Act, or

(ii) except in Part 7 of Chapter 5_as a reference to any person (other than an outworker in the clothing trades) required to comply with the mandatory code, and
(f) to employees is to be read as a reference to outworkers in the clothing trades, and
(g) to an industrial instrument includes a reference to the mandatory code,
as the case requires.

17 Authorisations for section 51 of the Trade Practices Act 1974 (Cth)
(1) This section takes effect on the day on which the mandatory code takes effect.
(2) The following are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales* :
(a) any agreements entered into before or after the commencement of this section by persons in order to comply with any requirements imposed on them by the mandatory code,
(b) the conduct of the persons in entering into any such agreements,
(c) the conduct of the persons in performing any such agreements,
(d) any thing done by persons in order to comply with any requirements imposed on them by the mandatory code.
(3) Things authorised to be done by subsection (2) are authorised only to the extent (if any) that they would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales* .
(4) In this section:

agreement includes a contract, arrangement or understanding.

18 Exemptions
The regulations may exempt any person or body or class of persons or bodies from the operation of the mandatory code or from a specified provision of the code.

Part 4 - Miscellaneous

19 Regulations
(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
(2) Without limiting subsection (1), regulations may be made for or with respect to the mandatory code.
(3) The regulations may create a summary offence punishable by a maximum penalty of 50 penalty units.

20 Amendment of Industrial Relations Act 1996 No 17
Schedule 2 has effect.

21 Review of Act
(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Appendix F: France's NRE Law

NOTE:
This appendix reproduces, with permission, the legislation currently in force in France in support of the disclosure of labour practices by French corporations.

The material was obtained from Legifrance, a publically available database that contains consolidated official versions of legislation of French laws and regulations, available under document number JUSC0220073D at http://www.legifrance.gouv.fr/. The translation of the official version of the legistlative changes was obtained from the European Sustainable and Responsible Investment Forum (Eurosif) web site at http://www.eurosif.org/srilf.shtml. The content, which is subject to copyright, is reproduced with permission to illustrate legal requirements in support of labour practices disclosure requirements in France. The Conference Board makes no claims to the content of this appendix. Please refer to the original web site for more information.

J.O n° 44 du 21 février 2002 page 3360

Décrets, arrêtés, circulaires

Textes généraux

Ministère de la justice

Decret n° 2002-221 du 20 février 2002 pris pour l'application de l'article L. 225-102-1 du code de commerce et modifiant le décret n° 67-236 du 23 mars 1967 sur les sociétés commerciales

NOR: JUSC0220073D

Le Premier ministre,

Sur le rapport de la garde des sceaux, ministre de la justice,

Vu le code de commerce, notamment son article L. 225-102-1 ;

Vu le code du travail ;

Vu le décret n° 67-236 du 23 mars 1967 modifié sur les sociétés commerciales ;

Le Conseil d'Etat (section de l'intérieur) entendu,

Décrète :

Article 1

Dans le décret du 23 mars 1967 susvisé, il est rétabli, après l'article 148-1, un article 148-2 ainsi rédigé :

« Art. 148-2. - Figurent en application du quatrième alinéa de l'article L. 225-102-1 du code de commerce, dans le rapport du conseil d'administration ou du directoire, les informations sociales suivantes :

1° a) L'effectif total, les embauches en distinguant les contrats à durée déterminée et les contrats à durée indéterminée et en analysant les difficultés éventuelles de recrutement, les licenciements et leurs motifs, les heures supplémentaires, la main-d'oeuvre extérieure à la société ;

b) Le cas échéant, les informations relatives aux plans de réduction des effectifs et de sauvegarde de l'emploi, aux efforts de reclassement, aux réembauches et aux mesures d'accompagnement ;

2° L'organisation du temps de travail, la durée de celui-ci pour les salariés à temps plein et les salariés à temps partiel, l'absentéisme et ses motifs ;

3° Les rémunérations et leur évolution, les charges sociales, l'application des dispositions du titre IV du livre IV du code du travail, l'égalité professionnelle entre les femmes et les hommes ;

4° Les relations professionnelles et le bilan des accords collectifs ;

5° Les conditions d'hygiène et de sécurité ;

6° La formation ;

7° L'emploi et l'insertion des travailleurs handicapés ;

8° Les oeuvres sociales ;

9° L'importance de la sous-traitance.

Le rapport expose la manière dont la société prend en compte l'impact territorial de ses activités en matière d'emploi et de développement régional.

Il décrit, le cas échéant, les relations entretenues par la société avec les associations d'insertion, les établissements d'enseignement, les associations de défense de l'environnement, les associations de consommateurs et les populations riveraines.

Il indique l'importance de la sous-traitance et la manière dont la société promeut auprès de ses sous-traitants et s'assure du respect par ses filiales des dispositions des conventions fondamentales de l'Organisation internationale du travail.

Il indique en outre la manière dont les filiales étrangères de l'entreprise prennent en compte l'impact de leurs activités sur le développement régional et les populations locales. »

Article 2

Dans le même décret, il est inséré, après l'article 148-2, un article 148-3 ainsi rédigé :

« Art. 148-3. - Figurent dans les mêmes conditions, dans le rapport du conseil d'administration ou du directoire, les informations suivantes relatives aux conséquences de l'activité de la société sur l'environnement, données en fonction de la nature de cette activité et de ses effets :

1° La consommation de ressources en eau, matières premières et énergie avec, le cas échéant, les mesures prises pour améliorer l'efficacité énergétique et le recours aux énergies renouvelables, les conditions d'utilisation des sols, les rejets dans l'air, l'eau et le sol affectant gravement l'environnement et dont la liste sera déterminée par arrêté des ministres chargés de l'environnement et de l'industrie, les nuisances sonores ou olfactives et les déchets ;

2° Les mesures prises pour limiter les atteintes à l'équilibre biologique, aux milieux naturels, aux espèces animales et végétales protégées ;

3° Les démarches d'évaluation ou de certification entreprises en matière d'environnement ;

4° Les mesures prises, le cas échéant, pour assurer la conformité de l'activité de la société aux dispositions législatives et réglementaires applicables en cette matière ;

5° Les dépenses engagées pour prévenir les conséquences de l'activité de la société sur l'environnement ;

6° L'existence au sein de la société de services internes de gestion de l'environnement, la formation et l'information des salariés sur celui-ci, les moyens consacrés à la réduction des risques pour l'environnement ainsi que l'organisation mise en place pour faire face aux accidents de pollution ayant des conséquences au-delà des établissements de la société ;

7° Le montant des provisions et garanties pour risques en matière d'environnement, sauf si cette information est de nature à causer un préjudice sérieux à la société dans un litige en cours ;

8° Le montant des indemnités versées au cours de l'exercice en exécution d'une décision judiciaire en matière d'environnement et les actions menées en réparation de dommages causés à celui-ci ;

9° Tous les éléments sur les objectifs que la société assigne à ses filiales à l'étranger sur les points 1° à 6° ci-dessus.

»

Article 3

Le ministre de l'économie, des finances et de l'industrie, la ministre de l'emploi et de la solidarité, la garde des sceaux, ministre de la justice, le ministre de l'aménagement du territoire et de l'environnement et le secrétaire d'Etat à l'industrie sont chargés, chacun en ce qui le concerne, de l'exécution du présent décret, qui sera publié au Journal officiel de la République française.

Fait à Paris, le 20 février 2002.

Lionel Jospin
Par le Premier ministre :

La garde des sceaux, ministre de la justice,
Marylise Lebranchu

Le ministre de l'économie,
des finances et de l'industrie,
Laurent Fabius

La ministre de l'emploi et de la solidarité,
Élisabeth Guigou

Le ministre de l'aménagement du territoire
et de l'environnement,
Yves Cochet

Le secrétaire d'Etat à l'industrie,
Christian Pierret

ENGLISH TRANSLATION
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Decree N° 2002-221 of February 20th, 2002 relative to the implementation of the article L. 225-102-1 of the Code of commerce and modifying the decree N° 67-236 of March, 23rd 1967 on company law

Art. 1. - In the above mentioned decree of March, 23rd 1967, the following article 148-2 is being inserted, after the article 148-1:
" Art. 148-2. - By application of the fourth paragraph of the article L. 225-102-1 of the Code of Commerce, the following social information must appear in the report of the board or of the executive board:

1. **a) Total workforce, recruitment's with a distinction between fixed term contracts and permanent contracts and with an analysis of the possible difficulties in recruiting, of the redundancies and their motives, of overtime, of sub-contracted labour.**
   b) If need be, information relating to staff reduction and employment safeguard plans, to the efforts made for staff redeployment, reemployment and subsequent accompanying measures;
2. **Organisation of working hours, their duration for full time and part time wage earning employees, absenteeism and its motives;**
3. **Wages and their evolution, welfare costs, the application of the Title IV, Book IV of the code of Labour, professional equality between women and men;**
4. **Industrial relations and the assessment of collective bargaining agreements;**
5. **Health and safety conditions;**
6. **Training;**
7. **Employment and integration of disabled workers;**
8. **Company benefits and social schemes;**
9. **Importance of sub-contracting.**

The report details how the company takes into account the territorial impact of its activities as far as employment and regional development are concerned.
It describes, if need be, the relations the company develops with associations for social integration, educational institutions, associations for the protection of the environment, consumers' associations and neighbourhood populations.
It indicates the importance of sub-contracting, how the company promotes to its subcontractors the provisions stipulated by the fundamental conventions of the International Labour Organisation and how the company makes sure its subsidiaries abide by them.
It indicates furthermore the way the foreign subsidiaries of the company take into account the impact of their activities on the regional development and neighbourhood populations.

Art. 2. - In the same decree is inserted an article 148-3 after the article 148-2:
" Art. 148-3. - Must appear in the same terms, in the report of the board or of the executive board, the following information on the environmental consequences of the activity of the company, relatively to its specific nature and impacts:

1. **Consumption of water resources, of raw materials and energy and description, if need be, of the measures taken to increase energy efficiency and the use of renewable energies, conditions of soil use, air - water - soil pollution emissions that could affect dramatically the environment, the list of which will be determined by an order of the ministers of the Environment and of the Industry, noise and olfactory pollution and waste;**
2. **Measures taken to limit the damage to biological balance, to the natural environment, to the protected animal and vegetal species;**
3. **Assessment or certification actions taken in terms of environmental protection;**
4. **Actions taken, if need be, to ensure the conformity of the company's activity with the legal provisions in that field;**
5. **Expenditures made to prevent the consequences of the company's activity on the environment;**
6. **Existence within the company of internal departments in charge of environmental management issues, training and information of employees on these issues, means dedicated to the reduction of environmental risks as well as the organisation put in place to deal with pollution accidents with consequences beyond the company's sites;**

7. Amount of provisions and guaranties allocated for environmental risks unless this information is likely to cause a serious prejudice to the company in an ongoing lawsuit;
8. Amount of compensation for environmental damages paid during the fiscal year in execution of a court order and measures taken to repair these environmental damages;
9. All elements on the objectives the company assigns to its foreign subsidiaries on above paragraphs 1° to 6°.

"

Appendix G: OPM Assessment Rating Details

This appendix presents the result of the criteria-based ratings of the various options generated by stakeholders as part of the OPM process, as well as the importance ratings assigned to each criterion. Twenty-three criterion in 4 categories were considered by stakeholders. Although the Optimal Policy Mix framework forced stakeholders to explicitly assess the effectiveness of the policy options through the use of criteria, it did not require from them a concensus on the ratings. In the summary tables that report on importance (Text Boxes 4, 6, 8 and 10), the importance ratings (L, M, H) refer to criteria.[27] In the summary boxes that report on the effectiveness of alternative proposals (Text Boxes 5, 7, 9, 11), the effectiveness ratings (L, M, H) refer to alternative proposals.[28]

Text Box 4	
Identification Criteria (questions that describe how each instrument helps achieve the objective)	**Degree of importance of criterion (low, medium, high)**
Ability to correctly identify sweatshops: Are companies employing sub-standard labour practices readily identifiable or are there different opinions depending on the stakeholder?	L / H
Quality of the Information: Are the sometimes-complex apparel supply chains accurately reported? Are labour standards readily identifiable? Is there a chance of misinformation?	M / H
Geographic dispersion: Are the sources of sweatshops concentrated (e.g., in particular regions or countries) or dispersed (e.g., can be found anywhere and anyplace)? Are impacts geographically dispersed or concentrated (e.g., is it certain types of apparel from certain regions or all types)?	L
Ability to respond: Once substandard practices have been identified, are companies likely to respond positively to address issues (e.g., new policies, training, improved conditions) or do companies cease to exist (go out of business, bankruptcy, disappear) or do they change locations/names?	M / H

[27] In boxes that summarize the importance of criteria (Boxes 4, 6, 8 and 10), the importance ratings (L, M, H) refers to the importance of each criterion to the achievement of the policy objective. A "L" rating suggests a criterion of lesser importance, whereas a "H" rating reflects a very important criteria. The OPM process did not force stakeholders to agree on a single rating for each criterion (although this happened in many cases). Where stakeholders could not agree, the range of ratings is specified.

[28] In boxes that summarize the effectiveness ratings of alternative proposals (Boxes 5, 7, 9 and 11), the importance ratings refer to the effectiveness with which particular alternative proposals contribute to maximizing the policy objective. Stakeholders rated the alternative proposals as highly effective (H), less effective (L) or somewhere in the middle (M). In cases where the proposal did not address the criteria at all, a rating of not applicable (N/A) was given. Where stakeholders could not agree, the range of ratings is specified.

Text Box 5

Identification Criteria (questions that describe how each instrument help achieve the objective)	**Mandatory disclosure (ETAG Proposal)**	**Procurement Initiative (similar to the university and cities initiatives)**	**Institutional practices codes of conduct**	**Certification of suppliers (example, ISO or FLA type process)**	**Bilateral Labour Agreements (in parallel with trade agreements)**	**Regular reporting (specific companies)**
Ability to correctly identify sweatshops: Are companies employing substandard labour practices readily identifiable or are there different opinions depending on the stakeholder?	N/A	L M (Audits and reports)	L M (Audits and reports)	L M	L	M
Quality of the Information: Are the sometimes-complex apparel supply chains accurately reported? Are labour standards readily identifiable?	L H (Shady deals, illegal trans - shipments)	M H	M H (Depends on content & audit)	M (Depends on content & audit)	L	L H (Quality And Frequency)
Geographic dispersion: Are the sources of sweatshops concentrated (e.g., in particular regions or countries) or dispersed (e.g., can be found anywhere and anyplace)? Are impacts geographically dispersed or concentrated (e.g., is it certain types of apparel from certain regions or all types)?	H	L	L	L	L	L
Ability to respond: Once substandard practices have been identified, are companies likely to respond positively to address issues (e.g., new policies, training, improved conditions) or do companies cease to exist (go out of business, bankruptcy, disappear) or do they change locations/names?	L M	H	L M	M H	L (Remedies enforcement)	M-H

Text Box 6	
Technical Criteria (questions that describe how each instrument help achieve the objective)	**Degree of importance of criterion (low, medium, high)**
Level of change, innovation and turnover: Does the apparel industry undergo high levels of change in production/manufacturing sources (e.g., new suppliers are introduced every day)?	M-H
Structure of the industry: Are practices homogeneous throughout the industry or are practices of small firms different from those of large firms?	H
Existence of appropriate information: How long are supply chains in this industry? How many suppliers are there? Is there an easy way to verify and share information about labour practices used by those suppliers (e.g., relatively homogenous information sources) or is a wide variety of means being used (e.g., hearsay, media reports, list of suppliers)?	H
Availability of alternative suppliers: Are new, more acceptable suppliers readily available (e.g., purchasers can cut and run) or is it economically feasible and/or are existing suppliers willing and able to change (purchasers will work with them)?	M-H
Government administrative capacity: Does government possess the administrative capacity to accurately capture information about suppliers and manufacturers, or must it rely on the word of others, or implement more complex approaches (such as voluntary measures, MOUs, legal agreements, fiscal instruments)? Are shipments accurately reported?	L-H
Impact mitigation: Does the approach contribute to impact prevention, better labour standards, or impact reduction?	H

Text Box 7

Technical Criteria (questions that describe how each instrument help achieve the objective)	**Mandatory disclosure (ETAG Proposal)**	**Procurement Initiative (similar to the universities and cities initiatives)**	**Institutional practices codes of conduct**	**Certification of suppliers (example, ISO or FLA type process)**	**Bilateral Labour Agreements (in parallel with trade agreements)**	**Regular reporting (specific companies)**
Level of change, innovation and turnover: Does the apparel industry undergo high levels of change in production / manufacturing sources (e.g., new suppliers are introduced every day)?	M	M	M	L	L	L M
Structure of the industry: Are practices homogeneous throughout the industry or are practices of small firms different from those of large firms?	H	M H	M H	H	M H	H
Existence of appropriate information: How long are supply chains in this industry? How many suppliers are there? Is there an easy way to verify and share information about labour practices used by those suppliers (e.g., relatively homogenous information sources) or are a wide variety of means being used (e.g., hearsay, media reports, list of suppliers)?	L H	M H	L H	M H	L H	M H Depends on third-party credibility
Availability of alternative suppliers: Are new, more acceptable suppliers readily available (e.g., purchasers can cut and run) or is it economically feasible and/or are existing suppliers willing and able to change (purchasers will work with them)?	N/A	L H	L H	L H	L	L M
Government administrative capacity: Does government possess the administrative capacity to accurately capture information about suppliers and manufacturers, or must it rely on the word of others, or implement more complex approaches (such as voluntary measures, Memorandums of Understanding (MOUs), legal agreements, fiscal instruments)? Are shipments accurately reported?	M H	M H	M H	M H	M H	M H
Impact mitigation: Does the approach contribute to impact prevention, better labour standards or impact reduction?	H	L	L	L	L	L

Text Box 8	
Socio-political Criteria **(questions that describe how each instrument help achieve the objective)**	**Status of Criterion** **(degree of importance of criterion, low, medium, high)**
Employee dislocations: What are the impacts on local workforce of identification of sweatshops and can they be improved?	L on very serious issues, M & H on less serious issues
Responsibility of government *vs* self determination for other nations: Is there strong stakeholder or public pressure that the government make decisions about labour practices in other jurisdictions?	L globally M domestically
Public/stakeholder pressure: Is there strong stakeholder or public pressure to resolve this issue in Canada or is a global solution required?	L H it is uneven
Level of political will: Is there a high level of political will to deal with this issue?	M H
Reputation /image : Is there a reputation and/or image benefit to particular manufacturers/ suppliers in undertaking labour standards reviews and reforms?	M H
Drivers / motivators for apparel industry: Are there incentives/reasons for stakeholders to cooperate well or take a leading cooperation/leadership role in dealing with this issue?	H

Text Box 9

Socio-political Criteria (questions that describe how each instrument help achieve the objective)	Mandatory disclosure (ETAG Proposal)	Procurement Initiative (similar to the universities' and cities' initiatives)	Institutional practices codes of conduct	Certification of suppliers (example, ISO or FLA type process)	Bilateral Labour Agreements (in parallel with trade agreements)	Regular reporting (specific companies)
Employee dislocations: What are the impacts on the local workforce of identification of sweatshops and can they be improved?	L	L H Depending on reaction	L H Depending on reaction	L H	H if better than NAFTA	L
Responsibility of government vs self determination for other nations: Is there strong stakeholder or public pressure that the government make decisions about labour practices in other jurisdictions?	L	L	L	L	L M	L
Public/stakeholder pressure: Is there strong stakeholder or public pressure to resolve this issue in Canada or is a global solution required?	H	M				
Level of political will: Is there a high level of political will to deal with this issue?					L M	
Reputation/image : Is there a reputation and/or image benefit to particular manufacturers/suppliers in undertaking labour standards reviews and reforms?	M H	H	H	H	L H	H
Drivers/motivators for apparel industry: Are there incentives/reasons for stakeholders to cooperate well or take a leading co-operation/leadership role in dealing with this issue?	M H Negative implications	M H Positive implications	M	M	L	M

Text Box 10	
Economic Criteria (questions that describe how each instrument helps achieve the objective)	**Status of Criteria (degree of importance of criteria, low, medium, high)**
Level of risk : Does the problem entail a high level of risk to society or local economic well being if not dealt with?	L globally for society and H for local economy
Potential for trade action: Is there likely to be trade retaliation for government or industry action on this issue?	M H
Market structure: Is the apparel market structure competitive? For example, are there many firms? Is there price sensitivity?	H
Benefit and cost of solutions :To what extent does the proposed solution provide a net economic benefit to:	
workers?	H
communities?	H
manufacturers?	M H
retailers?	M H
consumers?	M H
governments?	L H
Consumer contact/industry visibility : Are the stakeholders/apparel industry players visible in the public eye?	M
Transparency of compliance: Is compliance by individual stakeholders/resource users easy to determine? For example, are results auditable?	H

Text Box 11

Economic Criteria (questions that describe how each instrument help achieve the objective)	Mandatory disclosure (ETAG Proposal)	Procurement Initiative (similar to the university and cities initiatives)	Institutional practices codes of conduct	Certification of suppliers (example, ISO or FLA type process)	Bilateral Labour Agreements (in parallel with trade agreements)	Regular reporting (specific companies)
Level of risk : Does the problem entail a high level of risk to society or local economic well being if not dealt with?	L H	L M	L	L M	L	L M
Potential for trade action: Is there likely to be trade retaliation for government or industry action on this issue?	N A or H	N A or L	N A or L	N A or L	L H	N A
Market structure : Is the apparel market structure competitive? For example, are there many firms? Is there price sensitivity?	M H	L	H	M	L H	L
Benefit and cost of solutions :To what extent does the proposed solution provide a net economic benefit to:						
workers?	H (Indirectly)	M	M	H	M	M
communities?	L	M	L	L	M	
manufacturers?	L H	M	H	H	L	M
retailers?	L H	M	H	H	L	
consumers?	H	M	M	H	M	M
governments?	L	M	L	L	M	M
Consumer contact/industry visibility : Are the stakeholders/apparel industry players visible in the public eye?	L M	M H (Depending on verification)	M H	L H	L M	L M
Transparency of compliance: Is compliance by individual stakeholders/resource users easy to determine? For example, are results auditable?	M	L M	L M	L M	L M	L M